
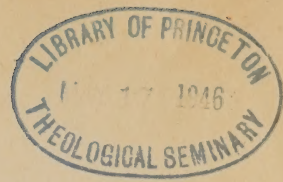




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Christ and divorce



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CHRIST And DIVORCE

BY
FELIX L. CIRLOT, Th. D.

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With great love and gratitude
this book is dedicated
to my dear mother,
Anne Christine (Sibley) Cirlot

ERRATA

PAGE	LINE	ERROR
xiii	7	For "II" read "III"
86	29	For "constiutes" read "constitutes"
108	26	For "them" read "their"
109	38	For "impared" read "impaired"
119	20	Place the period one space nearer to "Law"
123	28	Place closing half of () after "prohibited" and before "?"
166	28	For "unintentionally" read "unintentionally"
210	25	Place period after "VII" and before "(i)"
212	5	Place a comma after "God"
214	15	For "do" read "does"
214	37	Place a comma after "it" and before "if"
217	18	Read "conflict of loyalties" instead of "conflict to loyalties"

EXPLANATORY NOTE: The Order of Holy Cross, to which I have expressed my deep and sincere gratitude in the Preface of this book for very liberal financial help in making possible its publication, is apprehensive lest that acknowledgement of their generosity might by some be misconstrued as implying their agreement with the position concerning Christology expressed by the author in Appendix B and in Sections v-viii of the Preface. It was not the intention of the author to lead anyone to infer the agreement of the many financial sponsors of this book with that Christological position, nor indeed with any other position taken in this book, except in the most general sort of way with its main position as to divorce. And in the case of the Order of Holy Cross, as far as concerns my Christological position, such an inference would be contrary to the facts. I am glad to make this explanation to avoid any misunderstanding or embarrassment to those who have been so kind as to lend a helping hand in my effort to help keep our beloved Church faithful to the teaching of her Lord on the subject of marriage and divorce.

(REV.) FELIX L. CIRLOT

PREFACE

i. The purpose of this book is twofold. My first and chief purpose is to attempt to settle, as I believe can be done, the still hotly controverted question as to what the historical Jesus actually taught on the subject of divorce and remarriage after a divorce. My second and subsidiary purpose, dependent entirely for any possible success on the success of the first purpose, is to do what I can to avert the terrible peril that seems so clearly to beset the Episcopal Church of having an utterly pagan divorce canon thrust upon her by the uninstructed zeal of those who are trying to "liberalize" the position of the Church on that point.

Let me hasten to say that I am fully aware that these good people would indignantly repudiate the charge that the Phister Canon, which was defeated by so narrow a margin at the most recent General Convention, is in any way pagan. Their sincerity is beyond question. If I had any doubt about it, it would be a waste of time to write this book. But just because they are absolutely sincere, and earnestly desirous of being loyally obedient to Christ, and because they accept the appeal to the Supreme Court of scholarship, I have real hope that a book such as this, if its scholarship is accurate and its conclusions sound, may cause these admirable heretics to reverse their recent position and support the position which Christ really taught, instead of the position they have been maintaining (mistakenly, as I hope to show in this book) He taught.

ii. In order to help the reader who desires to read the positive contentions of the book without going into the immense amount of detail involved in criticising the positions of others, I shall indicate briefly here the structure of the book as a whole. In Chapter I I have undertaken to settle as far as I can the correct text of our chief sources on the only really doubtful points that seriously affect our conclusions. Then, in Chapter II, using the results arrived at in Chapter I, I attempt to reconstruct as nearly as possible the actual words spoken by the historical Jesus. Chap-

ter III is a detailed defense of the genuine historicity, as an actual saying of the historical Jesus, of the saying that remarriage after divorce is adultery. Hence anyone who does not dispute that point can simply skip that chapter. Chapter IV resumes and concludes the main *historical* contention of the book by showing that, if the historical Jesus really spoke the words which we decided in Chapter II to be historical, then He believed in the indissolubility of marriage, and based all His teaching about divorce on that fundamental premise.

Then, in Chapter XII, I have given a brief statement of the arguments which in my opinion show that reason and authority (that is, the teaching of Jesus Christ, Incarnate God) render the same verdict on the subject, though of course the case for the historical fact that Christ so taught is, in my opinion, open to far less doubt than the case for indissolubility being the verdict of reason. Finally, in Chapter XIII, I draw the *practical* conclusions which our doctrinal conclusions in Chapters I, II, IV, and XII dictate, and defend those practical conclusions against certain common objections. These five chapters, then, constitute the positive portion of the book, and the intervening chapters can be skipped without affecting the main statement of the case.

iii. However, that is not to say that the remaining chapters are unimportant. On the contrary, until one has read them, one has not yet heard the rebuttal which would be offered by those who claim to be entitled to speak in the name of "criticism" on this point. Let me hasten to say that I believe as fully in the critical approach to such questions as any of my opponents can possibly do. What I deny is that a truly critical approach yields the results which Drs. Easton, Grant, Jones, and R. H. Charles among others believe it to yield. The only way this issue can be settled is to hear the case of these great scholars fully and patiently, and then present my surrebuttal to what is in effect their rebuttal of my positive case.

So in Chapter III I have studied at great length, because of its utterly critical importance, in my opinion, the attempt of Dr. Easton, which has been eagerly accepted by Dr. Grant, to show that the historical Jesus never uttered the saying that remarriage after divorce is adultery. In Chapter V I consider

the theory, now completely discredited among those who are abreast of the results of modern scholarship, that Christ made an exception in the case of the innocent party in a divorce for adultery. I include this chapter partly for the sake of completeness, but also because many of the older clergy and still more of our leading laity are not abreast of those results. Chapters VI, VII, and VIII are devoted to the objection that is at present the main avenue of escape taken by those who accept the appeal to the court of historical criticism and at the same time defend a "liberal" conclusion as to what Christ taught. That is the objection that the words of Jesus about divorce are no more to be taken at their apparent face value than are His words on dozens of other subjects that could easily be named. Because of the crucial importance of this issue, I have devoted three full chapters to an exhaustive consideration of it. However, I must record my conviction that the results reached in Chapter III are absolutely fatal to the objection considered in Chapters VI–VIII, and that therefore that chapter is really, in a way, the most crucial chapter in the whole book, since the saying defended in that chapter is, if genuinely historical, the Achilles' heel of the "liberal" position.

In Chapters IX–XI I criticize three recent articles on the subject which I consider important. Dr. Grant's article which is criticized in Chapter IX contains the most detailed defense known to me of the position dealt with in Chapters VI–VIII. Dr. Jones, in the article criticized in Chapter X, has reached a "liberal" conclusion, at least as far as the teaching of Christ is concerned, by a somewhat different route, which accordingly calls for refutation. Dr. Stowe, in the article studied in Chapter XI, has raised an argument which has nothing to do with the purely historical issue of what the historical Jesus said and meant, but which has a vital bearing, if it is sound, on the practical question of what we may loyally do in the way of a canon on marriage and divorce. Hence I have felt it necessary to show at some length what seems to me certain—that his argument is totally invalid.

iv. I hope that any who may still dissent from the conclusions maintained in this book, even after reading it carefully and conscientiously, will submit to the Church not only the fact

of their dissent, but the reasons for it, and with sufficient thoroughness to make it possible to cross-examine them and criticize them. To this end, the case for continued dissent, if one is still believed to exist, ought to be published, and not simply given to students in the classrooms. If the case is sound, it can suffer no harm from being submitted to the criticism of those who dissent and who in addition have specialized in this subject. If it is not sound, it is hardly fair to present it to students who are not specialists and who cannot judge the merits of the case fairly when one side has the advantage of indefinite oral discussion, to which the other side gets no chance to reply.

I would suggest also that the argument ought to take up where the present book leaves it. So often I find simply a repetition by the "Liberals" of arguments which upholders of the strict position have already attempted to answer, without saying either why that answer is deemed insufficient, or where their case is held to break down on its positive side. For example, in the article to which Dr. Grant was replying in his article which is criticized in Chapter IX, I had both stated a positive case, and also attempted to answer the objection that our Lord's words on this point must not be taken at their face value. It seems to me that Dr. Grant ought to have tried to show both why my positive case was at least indecisive, and also why my answer to his objection was insufficient. But neither of these things was even attempted.

Of course it is legitimate to attempt to prove by entirely new arguments the falsity of a conclusion for which attempted proofs have been given. But if the arguments which support the attacked conclusion have not been shown to be open to successful attack, either as to their material logic or as to their formal logic, then the attacked conclusion has the right to stand as proved by *direct* arguments that are not subject to any assignable flaw; and in that case any attempt to disprove it by *indirect* argumentation would need to be very cogent—at least stronger than the positive arguments adduced in favor of the conclusions attacked—in order to justify its continued rejection. We shall never get anywhere if the protagonists of a "liberal" position persist in starting the argument over from the beginning

every time, instead of taking up the argument where their opponents left it. The present writer will cordially welcome any further efforts to contest the position taken in this book, if these canons of fairness are observed.

v. I wish to add a few words in regard to the position taken in Appendix B. It assumes as at least probable a view of the Incarnation which is well understood by the present writer to be in some important respects novel, from the standpoint of both the traditional systematic theology and the traditional apologetic. This position it has not been possible to find space to develop in any sort of an adequate way in the present book. Since writing Appendix B the present writer has had occasion to produce a series of articles for *The Living Church*. In the fourth installment of this series, which appeared in the November 26 issue of that periodical, the Christological position which underlies Appendix B is developed somewhat more comprehensively than was practicable in that Appendix. This article does not deal as fully as does Appendix B with the narrowly eschatological angle of the broader problem raised by our Lord's apparently limited human knowledge and self-consciousness. But on the other hand, it does deal (all too briefly and summarily, I freely admit) with broader aspects of the problem as a whole, so that I venture to recommend it to any who are not already acclimatized to the position it seeks to develop and defend against what seem to be *prima facie* objections to it.

vi. In further support of the possibility of our Lord having been (without prejudice to His authority as a teacher, or to His having been truly God-Incarnate) limited in human knowledge, and even of His actually having erred in matters of purely human opinion or anticipation, lying outside the sphere of His authoritative teaching, I would make the following points:

1. Even St. Thomas Aquinas, followed by the greatest and best of the rigidly orthodox Scholastics, accepted and contended for the essential position that the human knowledge of our Lord was finite, not infinite.

2. In my present isolated position it is not possible to verify the following quotation. But, if we may rely confidently on Bishop Gore, who was a thoroughly reliable scholar of the

highest rank, and whose accuracy on this point was never challenged as far as I am aware, Cardinal de Lugo (*De Myst. Incarn.* disp. xxi 3) implicitly sanctions, as at least orthodox, the position that God-Incarnate could have erred in His purely human knowledge, as long as He did not err in His *teaching*. According to Gore,¹ de Lugo, in the passage named just above, poses the question, *An (Christi) cognitio fuerit vel potuerit esse falsa?* Then, says Gore, "The answer is to *fuerit*, no; to *potuerit esse*, yes; according to the *communis* and *verior* opinion. Such fallibility, it is argued, need not have interfered with His teaching office; might have been allowed by the divine nature, etc."

If this quotation and summary of the passage in de Lugo is accurate, it seems to me of the utmost importance. For the orthodoxy of de Lugo has never been impugned, I believe. In any case, he is in all probability a more conservative theologian than any modern Anglo-Catholic who could be found—at least any who has intensively specialized in theology. Yet he calls the opinion that the human knowledge of Christ could have been false *communis* and *verior*. The lack of the definite article in Latin makes it impossible to be sure whether *communis* should be rendered "the common opinion" or only "a common opinion." But even if it means only "a common opinion" that would mean that at least a respectable minority of these ultra-conservative and strictly orthodox theologians held it. And that de Lugo calls it *verior* (the comparative degree) would seem to justify the conclusion that he himself shared it. Thus these theologians, who were past masters of the *a priori* method, found that it did not absolutely forbid, but rather favored, the *possibility* of our Lord's purely human knowledge having been not only limited, but actually erroneous, and without prejudice to His authority as a teacher, and to His having been really and truly God-Incarnate.

This conclusion is all the more weighty because it was not one forced upon them by their reading of the historical evidence. Their answer "No" to the question "*fuerit*" shows that clearly. We may marvel how people who did not feel at liberty to question the strict historicity of a single saying put on our Lord's lips in the New Testament could have given that

¹ Dissertations on Subjects Connected With the Incarnation, p. 170, note 1.

answer to that question. (Modern critical scholars, such as Gore and Dunphy, can save our Lord's eschatological expectations from error only by supposing that the early Church mistakenly attributed to Him such sayings as Mk. 9:1 and parallels, Mt. 10:23, and Mk. 13:30-33 and parallels.) But the fact that they could makes their answer "Yes" to the question "*potuerit esse*" only the more significant. If it is "bordering on heresy" to suggest limitations in our Lord's human knowledge, as a dear and highly respected friend of mine has recently written, at least these great and ultra-conservative theologians were apparently not aware of that fact. Even St. Thomas is, at least in principle, on this side. For "finite" means "limited."

If it "could have been false", without prejudice to His Deity and to His authority as a teacher, then the question whether it actually was or not ceases to be a crucial question, in either Dogmatic Theology or in Apologetics, and becomes essentially and purely a historical one. I think we to-day are in a better position to answer such a question than were the pre-critical theologians, however great these might have been otherwise.

vii. 3. While I shall not be so rash as to claim complete agreement of any one particular Anglo-Catholic theologian-scholar of high reputation with all the positions taken in Appendix B and in the recent articles in *The Living Church*, I believe that a position at least closely resembling it is held by the writers of *Essays Catholic and Critical*, *Essays on the Trinity and the Incarnation*, and many other leading Anglican scholars and theologians, including such distinguished names (for at least considerable portions of the whole position) as Gore, Hall, Stewart, Gavin, Hodgson, Rawlinson, Dunphy, Hardy, Pittenger, Easton, and others. All of these hold, of course, the full Chalcedonian doctrine of the Incarnation, whatever questions might be raised as to their complete orthodoxy on some other point or points.

viii. 4. The question, "How could God be ignorant?" seems to me to be more plausible than sound. It belongs, I am convinced, rather alongside such questions as "How could God suffer?" and "How could God die?" and "How could God be finite?" than alongside the question "How could God sin?" In all

these cases, except the last, the answer is, of course, "He could only because He had first assumed a human nature which was finite, and could without difficulty suffer and die." Only in regard to the possibility of sin in the human nature of God-Incarnate does this answer fail to suffice. So we must still answer the question as to the essential sinlessness of Christ with "*Non potuit peccare*" rather than with "*Potuit non peccare*."

But even here the common difficulty may be alleviated somewhat by allowing that this intrinsic inability to sin was in all probability one of those things about Him which were true without being known to the limited knowledge and self-consciousness of His human mind. As He met every successive temptation it would, I suggest, have seemed to Him that He could have yielded to it, but had by the grace of God been strong enough to resist it successfully. The unconquerable resources at His disposal as a result of the Hypostatic Union would have been as unknown to His human mind as was the Hypostatic Union itself. No human mind is *directly* conscious of its own *metaphysical* ego, as carefully and accurately distinguished from what modern psychology means by the word "ego." If it were, philosophers would not have been able to doubt or deny the very existence of such an ego. And the kind of *reflex* consciousness of having such an ego at which human philosophers for the greatest part arrive would not reveal whether the ego in question is or is not pre-existent, or purely human, or divine, or united to a divine nature.

That the Incarnation has brought with it a host of seeming paradoxes is a truism of which much use has been made in Christian hymns, prayers, and devotional theology. I see no sufficient reason why the idea of "an ignorant God" (ignorant, of course, only in the mind belonging to His assumed human nature) should not be included in this host. Only as a *teacher* is it, in my opinion, *a priori* unthinkable that God-Incarnate should have been fallible. With this opinion it was seen above that de Lugo and his allies would wholeheartedly agree.

ix. I do most earnestly hope that persons who intend to be friends and upholders of the Catholic Faith will not betray it with an unintentional Judas-kiss by attempting to prove that the authority of the whole Catholic Church is completely and

finally committed to tenets to which it is not in reality so committed, such as the theorizings of the Scholastics about the supposed three different kinds of knowledge in our Lord's human mind, and which I cannot help believing, even after making all due allowance for my own fallibility, have been definitely discredited by secure results of modern study. The Catholic position can be as gravely compromised controversially by its friends mistakenly claiming it is irrevocably committed to a position that is really already overthrown by the secure results of modern scholarship as by its *enemies* claiming to have overthrown one or more positions to which it really is irrevocably committed. Sometimes the modern Catholic apologist is strongly tempted to adapt an old adage and say, "I can, with the help of the facts, and of sound scholarship, take care of the intellectual enemies of the Faith. But only God can save me from its friends."

x. I wish also to make one point a bit clearer about the position contended for in Appendix D. Perhaps this can be done by saying briefly, and in different words, what I have already tried to say there, at greater length and in other words. My fundamental contention is that any canon which amounts to an indirect revision of the Constitution or of the Book of Common Prayer, by altering the worship or discipline, but especially the doctrine, of the Church, as enshrined in either of these, is unconstitutional, unless accompanied by the amendments to these necessary to make them harmonious with the new departure proposed in the canon. If this position be denied, then it is in reality possible to amend or revise the Constitution or Prayer Book by an easier and more simple process than the Constitution itself requires. *Quod est absurdum!*

There is, then, this only implicit but nevertheless very real and binding limit on the power of General Convention to enact canons. And it is not only a moral obligation to keep within these limits; it is a constitutional obligation as well. It is not explicitly asserted, to be sure. But it is clearly and unmistakably implied in the constitutional provision making it harder to amend the Constitution and the Prayer Book than it is to amend the Canons. So any canon which alters the doctrine (and probably also the discipline and worship) of "this Church" on a point on which it is embodied in either the

Prayer Book or the Constitution as well as in the Canons, is unconstitutional unless accompanied by amendments to the Prayer Book or Constitution (whichever is involved) making them conform to the change involved in the proposed canon. Only points of our doctrine, discipline, or worship enshrined in canons *alone* can constitutionally be altered by amending the Canons alone.

xi. To avoid any misunderstanding I had better add that even if the constitutional requirements are met, there are still implicit limits on the right of General Convention to alter the doctrine of our Church; and also its discipline, at least on points involving doctrine by implication. But these limits are solely moral, not constitutional. They are binding under pain of apostasy, but not of invalidity. So if the Church were to revise her *Prayer Book and Canons* so as to jettison her present official doctrine of the indissolubility of marriage, she would be guilty of unfaithfulness to Christ, but the action would not be unconstitutional. On the other hand, as long as her Prayer Book, implying as it does the doctrine of indissolubility, remains unaltered, any canon expressing or implying the contradictory opposite of that doctrine *will* be unconstitutional.

xii. It remains only to express my gratitude to those who have given me assistance of various kinds in preparing this book, and in making possible its publication. To Miss Farr, the Librarian of the Philadelphia Divinity School, I owe thanks for all her trouble in finding for me books and articles possessed by her own library, and for securing for me many books available only in other libraries. To my good friend, Mr. Donald Beggs, of St. Mark's Church, Philadelphia, I am grateful for a great amount of time saved me by patiently typing and retyping portions of the manuscript that had been too drastically revised to dare to submit them to a printer as they stood. I want also to thank Professor Easton of the General Theological Seminary for his special kindness in reading the early chapters of the book and offering helpful criticisms despite the fact that he did not agree entirely with all in those chapters. Gratitude is also due to Mother Rachel, the Superior of the Community of St. Anne, of which I have the pleasure and honor of being the Chaplain, and to Miss Elizabeth Freeland, a member

of the Faculty of Margaret Hall, the splendid school for girls operated by them at Versailles, Kentucky, for assistance in reading the proofs and catching many errors that I myself had overlooked on a first reading.

I am indebted to so many for financial assistance in making possible the printing of this book, in time to stand a chance of achieving its second and subsidiary purpose, that I have had to alter my original purpose of mentioning them all by name. Moreover—a second reason for this change of plan—such contributions are continuing to come in in such numbers, and with such generosity, even up to the time I go to press, that many would inevitably be omitted even if I attempted to do so. This shows how many of our clergy are sacrificially interested in trying to keep our Church faithful to the teaching of our Lord on the subject of remarriage after divorce, and so is a great added ground for rejoicing. However, while I shall not attempt to mention the whole number of financial sponsors of this book by name, I must make two exceptions. Without the extreme kindness and generosity of Father Whittemore, in the name of the Order of Holy Cross, of which he is the Superior, I seriously doubt if I would have been able to finance the printing of this book, even with the help others have given me. The second exception is my dear friend, Father Robert M. Crane, at present a Chaplain in the U. S. Army, for a contribution so sacrificially generous that it would be unthinkable to leave it unmentioned. So to these, and to all others who have made real financial sacrifices to make possible its appearance without protracted delay, I owe and wish to express most sincere and deep gratitude. If the book does any considerable measure of good, theirs will be a real share in the credit.

Finally, I wish to express my thanks to the Commercial Printing Company, of Lexington, Kentucky, for the very helpful and friendly way in which they have cooperated with me in the actual production of the book.

xiii. And now I submit this book to the consideration and criticism of scholars and of the Church. I hope that, in the goodness of God, it may achieve its declared purposes if its conclusions are correct; and that its errors may be promptly ex-

posed, if it contains any that would materially modify the main conclusions reached. May God use it to His honor and glory, and to the promotion of His Truth; whether by the proud path of granting victory to its contentions, if they are right, or by the humbler path of spurring others on to refute them, if and in so far as they are wrong!

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PROLOGUE

1. In order to determine the teaching of Christ concerning divorce we have to determine first of all the correct reading of the text of our primary sources, so far as this problem has any material bearing on the solution of our problem. Then we have to determine, on the basis of these critically determined texts, what Christ in all probability actually said as a historical character. Next we have to try to determine, as decisively as the data available will permit, just what He meant by the words He seems to have uttered. Finally, I shall consider the chief objections that are at present urged against the conclusions we have reached. I shall show why, in my opinion, they are at least completely indecisive and, I think, entirely invalid.

Chapter I

THE CORRECT TEXT

2. Fortunately, the textual variants in St. Mark 10:1-12 and St. Luke 16:18 are not of serious importance for our purpose, and we need not delay to study them. But in the First Gospel, we are not so fortunate. To be sure, the correct reading in the first of the two relevant passages, the one in the Sermon on the Mount (Mt. 5:32), is not open to much doubt. It almost certainly reads, "Everyone divorcing his wife, except on the ground of unchastity, maketh her commit adultery; and whosoever shall marry a divorced woman commits adultery." But in the second, and longer, and crucially important passage (Mt. 19:1-12) there are several competing readings which may be of the greatest importance. For it is in verse 9 of this chapter that we find, in our present English versions, and also in practically all of our present critical editors of the Greek text, the famous "exception-clause", which here, and here alone, can fairly be alleged to give any real countenance to the idea that Christ allowed remarriage to the innocent husband who had divorced his wife for unchastity.

3. Let us begin by having this point perfectly clearly in our minds. The "exception-clause" occurs twice; in Mt. 5:32 and again in Mt. 19:9. But the first time it does not, even by implication, give any support at all to the idea that remarriage after a divorce given on the grounds of adultery is permitted. The function of the "exception-clause" in 5:32 is quite different. There it is equivalent to the qualifying clause, "*unless she has already made herself* an adulteress by her own misconduct." The passage says nothing about the remarriage of the husband. What it says is that any husband who divorces his wife makes himself morally responsible for her becoming an adulteress, it being assumed, apparently, that she will either remarry or be incontinent outside pretended wedlock, and in either of these cases will have become an adulteress. The function of the "ex-

ception-clause" in this passage is, then, to cover the obviously exceptional case that, if she was divorced for adultery, in that case the husband will not be morally responsible for her becoming an adulteress, since she was one already—the reason why she was put away. Thus the "exception-clause" in this passage has no bearing at all on any right of remarriage in the innocent husband.

4. But in Mt. 19:9 about 75 or 80% of the manuscripts and versions (qualitatively speaking) give a very different reading. They add the crucial words "and shall marry another" after the "exception-clause" and then read, as is necessary to harmonize with this quite different reading, "commits adultery" instead of "maketh her an adulteress" which we found in 5:32 and which we find in about 20 or 25% of the manuscripts and versions in 19:9 also. On this reading, the text says not that the husband makes himself responsible for his wife becoming an adulteress, but that he himself becomes one, if he remarries. Now in this quite different context, the "exception-clause" does not have the same function that it had in 5:32. It at least prescinds from the case where the wife has been divorced on grounds of unchastity; and in all probability makes a definite exception of that case. The implied premise must be that the adultery of the wife has dissolved the formerly existing marriage bond; for otherwise the remarriage of the husband would be adultery, unless one could escape that inference by holding that polygamy was a possible alternative. This last suggestion seems to me completely untenable. The passage, then, on this reading, would mean that the marriage bond is dissolved (or at least dissoluble) on the ground of adultery, but on no other ground whatsoever.

5. We must make one important reservation to this last conclusion. Some scholars of high repute, both past and present (or almost present), have maintained that the word translated "unchastity" in the "exception-clause" should be understood to refer to pre-marital unchastity, or else to "incest"—that is, to marriage within the prohibited degrees. Dr. Dollinger in the nineteenth century, Dr. E. G. Selwyn in the late 1920's, and Dr. Bayard Hale Jones only a few years ago have argued in favor of the meaning "pre-marital unchastity". Dr. Frank Gavin

and Dr. Lowther-Clarke a bit before him, argued in the late 1920's in favor of the meaning "incest". It is clear that if either one of these interpretations is correct, we would really have to do not with a true divorce at all, but with what would nowadays be called an annulment. In neither of these cases, then, would the "exception-clause" authorize any exceptions at all to the indissolubility of marriage, granted it be a valid marriage in the first place. But while the evidence produced by the great scholars named certainly suffices to show that the Greek word used in the "exception-clause" can easily mean either one of the ideas suggested, it can also mean "adultery". So it cannot be safely contended that it has been established that the term in the "exception-clause" means either "incest" or pre-marital unchastity. Yet, clearly, even this much makes it doubtful whether the passage refers to "adultery" in the strict and proper sense.

6. Scholars have been almost unanimous in accepting in 19:9 the reading which includes the words "and marries another, (himself) commits adultery". It certainly is not possible to deny that this reading has the great bulk of manuscripts and versions on its side. But recently, Dr. Burton Scott Easton has argued cogently in favor of the originality of the reading preserved by the minority of the manuscripts and versions, in an important article published originally in *The Anglican Theological Review* for April, 1940, and Dr. Frederick C. Grant seems to accept Dr. Easton's contention in the July, 1940, issue of the same periodical. The present writer is convinced that these two eminent scholars are right on this point. I shall, therefore, give at once Dr. Easton's arguments, and shall supplement them with others which seem to me to make his conclusion extremely probable.

Dr. Easton says that the "ancient authorities" which the Revised Version mentions as supporting for 19:9 the same reading found in 5:32 "are very ancient and authoritative indeed; they include the most celebrated codex of all, the Vatican manuscript ("B"), whose text is rarely contaminated by the influence of parallel passages. Moreover, the transcribing of the Gospels was done almost wholly by non-Jews, who were far more likely to change a Jewish wording to a Greek than *vice versa*. It is most improbable that Matthew, who is painstakingly Jewish in

5:32, would let 19:9 slip by him in a non-Jewish form. And—most important of all—while in 5:32 the ‘exceptional clause’ is demanded by the context, in the ‘received’ text of 19:9 it has no organic connection with the passage; it is added like a gloss, and has perplexed interpreters in all ages.”

7. For the benefit of the non-specialist, I wish to enlarge a bit upon Dr. Easton’s second, third and fourth arguments in this brilliant passage. His point is that if we read 19:9 with the bulk of the manuscripts, we get the un-Jewish assertion that the man who remarries commits adultery. But according to the most precise Jewish usage, adultery is the sin of a married *woman*, but not of a married *man*, unless he sins with another man’s wife. On the reading Dr. Easton prefers, “Matthew” has “corrected” the non-Jewish statement that the man who puts away his wife and marries another “commits adultery” into the strictly Jewish statement that the man who puts his wife away “causes her to commit adultery”, adding of course the “exception-clause” in order (as explained above) to cover the case where she was *already* an adulteress, and consequently *he* did not *make* her one by putting her away. It is clear that “Matthew” has stumbled at the non-Jewish form of the statement from Q which he reproduces (in “corrected” form) in 5:32; and that he has solved the problem it presented in the way just described. We must remember that the First Evangelist had no idea that his sources were infallible, or even (probably) inspired at all. Hence, he would at times come to something which did not sound right to his strict Jewish ears, he would say to himself, “That can’t be right, the Lord cannot have said that” and then he would attempt to reconstruct from the material before him, and possibly from other material if he had access to any other, just what it was that the Lord must actually have said or meant on that occasion.

Now, if it is clear, as it seems to be, that the First Evangelist has stumbled at this un-Jewish mode of expression the first time he came across it in his sources, which was in the passage 5:32 in the Sermon on the Mount, and if he has met the difficulty as we have seen he did there, Dr. Easton’s argument is that it is very probable that he would have felt exactly the same difficulty the second time he met it, in the source of 19:9, and would

once again have dealt with it exactly as he did on the first occasion when he ran into that same problem. It is far less likely that he would have chosen a sharply different method of dealing with it the second time. The only contingency that could have made this likely would have been if he had thought of a better way of handling the problem the second time he came upon it than he had been able to think of when he first met it. But in reality, the way he has handled it the second time, if the reading of the great majority of the manuscripts and versions is correct, simply leaves the stumbling-block intact, for it speaks of the sin of the man as being adultery, which is the very point at which he stumbled. Besides, if he had thought by the second time he met it that he had found a superior way of grappling with the difficulty (as he deemed it) it is highly probable that he would have found some way to go back and handle it in this superior way the first time it had occurred, in 5:32, despite the fact that it would not have been as easy in those days as it is today with our modern printed books. So much for Dr. Easton's third argument. It seems very weighty.

8. As to his fourth argument, it is perhaps even weightier. We have already made clear above what the function of the "exception-clause" is the first time he inserts it in 5:32, and why he had to insert it all. We have seen why it is necessary to give strict accuracy of statement in 5:32. But if the First Evangelist allowed the same un-Jewish expression to pass unchallenged the second time he met it, in 19:9, the "exception-clause" would not only be completely unnecessary, but would basically and radically alter the teaching attributed to Christ, without in any way making the un-Jewish language, at which "Matthew" stumbled, less un-Jewish. The first time, in 5:32 no such radical corruption of the meaning of Christ's teaching is involved by the insertion of the "exception-clause". Nor can it be maintained that he was stumbling as much at the strictness of the teaching as at its un-Jewish mode of expression, for in 5:32 he leaves the strictness of the teaching quite unmitigated. Moreover, in 19:9, as shown best by Dr. Stuart L. Tyson in his book *The Teaching of Our Lord as to the Indissolubility of Marriage*, the context as a whole in 19:1-12 shows quite conclusively that our Lord had not taken sides with the Shammai school in contemporary Judaism (as He would have done if the "exception-clause" were his-

torical in the context provided by the bulk of the manuscripts) but had taken an even stricter position. Yet the evidence in 19:9 is quite conclusive that the "exception-clause" is an authentic part of the original text of the First Gospel (though not a historical utterance of Jesus). This fact proves that "Matthew" stumbled at the un-Jewish mode of expression the second time as well as the first, and it proves that he set about "correcting" it the same way he did the first time. This suggests very strongly that he would have carried through the same "correction" the second time as the first, and would have "corrected" the same un-Jewish phrase. If we accept this reading of the passage in 19:9, the objections raised from the context by Dr. Tyson vanish completely, and there is no inconsistency whatsoever, and no alteration of our Lord's essential teaching, and no indication that He took sides with the School of Shammai.

9. The present writer cannot attach much weight to Dr. Easton's second argument about the manuscripts having been produced almost wholly by non-Jewish scribes, who were far more likely to change a Jewish wording to a Greek than *vice versa*. For if the reading of the majority of the manuscripts is correct, then the reading of the minority is due to assimilation to Mt. 5:32, quite independently of whether the mode of expression in the latter passage is Greek or Jewish. Yet what little weight these considerations do have must be cast in the side of the scales to which Dr. Easton assigns it. And if the weight of his second argument is slight, the weight of his third and fourth arguments is great. I shall undertake to add certain additional arguments which seem to me to clinch the conclusion even more decisively.

10. First of all, as a negative argument, in the sense of forestalling a possible objection, is the fact that the reading of the bulk of the evidence can be easily accounted for without assuming that it is original. For, if it is not original, it can be explained without difficulty as being due to assimilation to Mk. 10:11 or (less likely) Lk. 16:18.

11. No doubt the chief weakness in the argument for the reading favored by Drs. Easton and Grant is the fact that the evidence of the manuscripts and versions is so one-sidedly averse to it. But on this subject, I would say several things:

1. Of course, other things being anywhere nearly equal, the reading having the better attestation from the manuscripts and versions ought to be preferred. In a great majority of cases, it appears to be the correct reading. But scholars are well acquainted with the fact that there is a sufficient minority of cases in which the less well attested reading seems to be in all probability correct to prove conclusively that this criterion alone is not decisive. And in the present case, other factors are not by any means equal. Everything else seems to tell in favor of the less well attested reading.

12. 2. Dr. Easton, as quoted above, has stated very strongly the grounds for attributing especial weight in this case to the great Codex Vaticanus (B), which is in all probability the weightiest single manuscript of them all. But all of the ante-Nicene Fathers are probably earlier than even this famous uncial. Now it seems quite clear that the scholarly Origen had in his text the same reading as B. Moreover, I think it likely that St. Clement of Alexandria had the same reading. My first reason for this conclusion is that he has *moichatai auten*, and then explains "that is, necessitates her to commit adultery" which sounds far more like the reading of the minority than that of the bulk of the manuscripts, despite the fact that the word *moichatai*, if it stood alone, would favor the same reading as the bulk of the manuscripts. But in addition to this there is the evidence to be presented below, which will, I think, make it very probable if not certain that the great majority of the earliest Fathers must have shared the reading of Origen and B.

13. 3. In view of the theory of some scholars that the Neutral Text represents a comparatively early and scholarly Alexandrian revision, even the agreement of Origen and St. Clement with B might be deemed to provide no more than "Neutral Text" support for the minority reading. For this reason, then, it will be a point of considerable importance if it can be shown that Tertullian had the same reading as Origen and B. I think this can be shown to be overwhelmingly probable. It is true that he may not actually quote the text, and it might seem at first from this fact that his reading of the passage cannot be determined. But I think it can be shown, nevertheless, that he did not read the text in any form that could possibly be made to give any sup-

port, even by that violent special pleading in which Tertullian was so adept, to remarriage after divorce in any case whatsoever. This seems to me to follow with certainty from *Adv. Marcionem* IV. xxxiv. In this passage, Tertullian is opposing the argument of Marcion, who had argued that the God of the Old Testament was not the same as the God of the New Testament, and had used as one proof of his thesis the fact that Moses had allowed divorce, while Christ had forbidden it. Tertullian is, consequently, breaking his back, so to speak, in an effort to find some way to make out a case for the view that Christ had not absolutely and without qualification forbidden all divorce whatsoever. What a Roman holiday he would have had with Marcion if his text of Mt. 19:9 had read as the bulk of the manuscripts do! But in reality he reveals no trace whatsoever of the perfectly obvious and simple and crushingly decisive answer which such a reading of Mt. 19:9 would have provided him. The obvious inference, then, is that his text of 19:9 read exactly the same as that of Origen and B. If so, this is very important, for Tertullian has no special connections with Alexandria or the Neutral Text.

14. 4. The conclusion just reached for Tertullian and, less confidently, for St. Clement, will be further strengthened, I think, by the points I am now about to mention, which concern the early Fathers as a whole, or at least the great majority of them. The first point is that, as Watkins says (quoted with agreement by Kirk) no Father during the first five centuries quotes Mt. 19:9 in support of the right of the innocent party in a divorce for adultery to remarry during the lifetime of the guilty party. I am not sufficiently acquainted with the Fathers to make that statement of my own knowledge. But I know no passage which would constitute an exception to this generalization, if careful attention is paid to exactly what Watkins and Kirk have said. It is to be observed carefully that they have not denied either (a) that some Fathers do either certainly (Ambrosiaster) or possibly or probably (Lactantius, St. Asterius, St. Basil, St. Epiphanius, and still more doubtfully St. Chrysostom) allow the right of such an innocent party to remarry without saying on what grounds they allow this, or (b) that some Fathers do quote the First Gospel, including the "exception-clause", in passages which have been interpreted by many as implying that they recognize the right of such remarriage.

Now even if the few exceptions mentioned in the preceding paragraph be real—and still more if the statement is true in the unqualified form quoted from Watkins and Kirk—this is so remarkable a fact as to demand an explanation, if a reasonable and adequate one can be found. Nor is there any difficulty at all in proposing such. If the correct original reading in both 5:32 and 19:9 was, “Whosoever puts away his wife, except for the cause of unchastity, causes her to commit adultery”, we have at once a perfectly simple and completely adequate explanation of why it was that the whole tradition, which unquestionably knew the “exception-clause” and frequently quotes it, did not see in it any permission to remarry.

It will further provide an explanation why even those who had the reading now found in the great bulk of manuscripts did not at first, and in many cases never did at all, put upon it the interpretation justifying remarriage in any case. The reason was that the passage had already acquired a different and unanimously accepted traditional interpretation, which not only drew no such inference, but positively excluded it. Thus for a while at least, the implications of the rapidly spreading corrupt form of Mt. 19:9 were unperceived. Their eyes were holden because of the traditional interpretation to which they were all, rightly, addicted, on the basis of the true reading of the text.

It will also provide a more completely adequate explanation of why the “exception-clause” was for several centuries unanimously interpreted as assigning the only cause for which separation from one’s wife was allowable, and never by anyone as naming a ground on which remarriage after such separation was permissible. It is true that 5:32, taken alone, might possibly suffice to explain the first half of this difficult fact. But the explanation is much more satisfying if both 5:32 and 19:9 had the same reading, and especially when we face the difficulty of combining that fact with the second one mentioned, which is, of course, the same in substance as one of the points already considered just above.

It will also explain why certain writers, like Lactantius, can in one passage quote “Matthew”, including the “exception-clause”, in such a way as has seemed from the standpoint of later

scholars, who were not addicted to the traditional interpretation of the "exception-clause", to imply and almost to express the right of remarriage, while elsewhere saying without any exception at all that remarriage after divorce is adultery.

It will also explain why 5:32 *seems* to be quoted so much earlier and more often than 19:9 and why sometimes the former *seems* to be commented on when professedly commenting on the latter. The explanation, of course, is that there was at first no material difference between 5:32 and 19:9, so that we cannot be sure on which the writer is commenting, or which he is quoting, before the corrupt reading spread.

15. No doubt it would be possible to frame some other explanation of all these separate phenomena if we knew for sure that the one here proposed is not correct. But in view of the fact that such a strong case can be made out for the Origen—B reading on the grounds developed above, following Dr. Easton, it seems that the explanation here suggested for the surprising features of the patristic evidence has a claim to be strongly preferable. So with the external evidence in favor of the same reading as in 5:32 thus strongly reenforced, and coupled with the weight of the internal evidence, we may now conclude with very great confidence that in 19:9 the original reading was, "Whosoever puts away his wife, except for (the cause of) unchastity, makes her an adulteress".

16. There remains yet one other textual problem to be considered. Immediately after the words just established as the true text, approximately half the manuscript and version evidence (viewed qualitatively, not quantitatively) contains the added words, "and the one marrying a divorced woman commits adultery". Are these words textually authentic?

17. As said just above, the weight of the external evidence is evenly enough divided to leave the answer wide open. Most critical scholars have omitted these added words from their texts, no doubt chiefly because their presence can be so easily explained as assimilation to Mk or Lk, a method of textual corruption very common, and well understood by all textual critics, while their absence cannot be similarly accounted for, since no other Scriptural passage omits them. In the opinion

of the present writer, this argument would be decisive if there were no equally plausible way to account for the omission of these words. But in the form of the text which we have just above seen reason to reject, but which is the one we find in the great bulk of manuscripts and versions, an alternative explanation is immediately at hand. It is the phenomenon called *homoioteleuton*. The word means "same ending" and describes the very common and fully recognized fact that wherever in any document that is being copied the same word, or different words having a similar ending, occur in close proximity, the eye of the copyist sometimes copies down to the first occurrence of the word or ending, and then unintentionally takes up again from the second occurrence, thus accidentally omitting all that falls in between.

Now in the text of 19:9, as read in the great majority of manuscripts, the word *moichatai* (commits adultery) occurs twice, immediately before the words in dispute, and again at the very end of the disputed words. These are exactly the conditions which would foster their accidental omission by *homoioteleuton*. Of course this serves only to balance the possibility of explaining their insertion by assimilation, and so does not settle the issue in favor of their authenticity, but only reopens the question.

18. There are, however, several considerations which seem to me to tip the scales strongly in favor of the genuineness of these words. I shall list these:

1. If the explanation by *homoioteleuton* is correct (an opinion which I am glad to find Dr. R. H. Charles holding), we ought to expect to find the words to be omitted exclusively, or almost exclusively, in manuscripts which have the reading we have rejected above, where the word *moichatai* occurs, and not (at any rate, to anything like the same extent) in manuscripts which read rather *poiei auten moicheuthenai*, since the latter words do not present the same possibilities of *homoioteleuton* (at least in Greek) as the majority reading. And as a matter of fact, this is exactly what we do find. Of all the authorities which read *poiei auten moicheuthenai*, the only ones which omit the disputed words are the Old Latin manuscript ff¹ and (apparently) some of the Coptic evidence. This is only a small

part of the evidence for the reading *poiei auten moicheuthenai*. But on the other hand, among the manuscripts and versions which read *moichatai*, the greater part, and still greater proportion of the earliest and most important authorities, omit the words in dispute. This strongly supports the possibility that these words are omitted by *homoioteleuton*, rather than inserted due to assimilation.

2. If our conclusions above as to the correctness of the Origen-B reading are correct, in that case the argument for the authenticity of the words now under consideration is greatly strengthened, since the great majority of the small minority which have preserved the correct reading on the first point contains these disputed words instead of omitting them.

3. Also, the alternative theory of insertion due to assimilation suffers from the fact that the phenomena are not, in detail, exactly what we would expect them to be if it were true. We would expect the assimilation to be most likely sometimes to Mt. 5:32b, sometimes to Lk. 16:18, and sometimes to Mk. 10:12. But if it were not due to several separate errors of assimilation, but to one single and very early error, at least we would expect it to be assimilated exactly to one of the three. Yet it is not exactly assimilated to any one of the parallel passages. It differs from Lk. 16:18 by omitting *apo andros*, by reading *moichatai* instead of *moicheuei*, and (in most of the best authorities for these words) by reading *gamesas* instead of *gamon*. The presence of the latter tense in a few authorities probably is a real case of assimilation to Lk. It differs from Mt. 5:32 by having *he gamesas* instead of *hos ean . . . gamese*. And it differs from Mk. too widely for assimilation to be even a possibility. On the other hand, it can be very easily and well explained as derived directly from Q (we shall see reasons for this conclusion below) not by a scribe assimilating to Lk. or Mt. 5:32, but by the editor or redactor of the First Gospel, exercising the inevitable prerogatives of an editor in revising his source slightly, if indeed it is he who has departed from Q. It is, of course, quite possible that he has preserved the original reading of Q, rather than St. Luke, in reading *gamesas* instead of Luke's *gamon*, and *moichatai* instead of Luke's *moicheuei*, and in "omitting" *apo andros*, or in any one or two of these three points of divergence.

19. We must, for these reasons, conclude that the added words "and the one marrying a divorced woman commits adultery" are in all probability an authentic part of the original text of the First Gospel. His full text, then, at this point read, "Whosoever shall put away his wife, except for unchastity, causes her to commit adultery, and the man marrying a divorced woman commits adultery." This conclusion is of no small importance, as we shall see later.

There are other doubtful points in the texts of our authorities, but none on any point that can affect our main conclusions materially. Since, therefore, our purpose is exclusively practical, I shall not pause to consider them.

Chapter II

THE ACTUAL WORDS SPOKEN BY CHRIST

20. The task of Lower Criticism is done, so far as this is necessary for our present purposes. We now pass on to the Higher Criticism of our subject. We have first of all to try to determine, in the face of our somewhat conflicting authorities, as nearly as possible, just what the historical Jesus actually said on the subject. Then, secondly, we have to deal with a vitally important attack on the historicity of one of the most crucial passages in His teaching, which, as we shall see, our extant authorities for His teaching all unanimously agree in attesting, at least by indirection, and, for the most part, quite directly as well. This portion of our study will thus have two chapters.

21. Perhaps the great majority of modern critical scholars accept the conclusion that the account of our Lord's teaching in Mk. 10:1-12 is our chief primary account, and a brief passage in Mt. 5:32 and Lk. 16:18 (probably from Q, because reproduced independently, though in divergent forms, by "Matthew" and St. Luke) is a second primary witness to what is in all probability the most crucial single passage in His utterances on the subject. On this theory, the long passage in Mt. 19:1-12 is derived from Mk. 10:1-12, and so has little value at points where it differs from the latter account. Bishop Gore and Dr. G. H. Box, in their reply to Dr. R. H. Charles, and also Dr. E. G. Selwyn, in a similar reply in *Theology*, have vigorously maintained this theory, and have not only been able to quote eminent scholars and commentators as on their side, but have been successful, in the opinion of the present writer, in reducing somewhat the force of Dr. Charles' arguments. Nevertheless, on the whole, I cannot but give my judgment in favor of Dr. Charles on the main point of source-criticism at issue, though not by any means in all the details.

The main point is that, apart from the "exception-clause" which is quite certainly secondary, and is to be explained as we saw above in Chapter I, being due directly to the "correction" of his source by the First Evangelist, the account in "Matthew" is historically superior to that in Mk. This, of course, could be due to the Evangelist having oral sources of information by which to correct St. Mark's version. Or his account could be quite independent of St. Mark's, and taken from his hypothetical source M, which was not available to St. Mark. But since it is a well established point that he knew and used extensively the source we call Q, and since it is, in my opinion, sufficiently clear that St. Mark also knew it and used it, at least a little, and since the parallelisms between the Markan and "Matthaeian" accounts are sufficient to suggest literary dependence, either of one on the other, or else of both on a common source, the theory that they are both directly dependent at this point on Q, and that each one has "corrected" Q at certain points, is by far the most probable. We should, therefore, try to reconstruct the original Q version from their combined evidence.

22. I shall work on the canon, as most probable, that the Q version would be at every point the form of the narrative which seems to possess superior claims to historicity and to general probability. Assuming the validity of this canon, the only point at which "Matthew" seems less probably historical than St. Mark is in the twist he has given (both here and also in 5:32) to the un-Jewish assertion that for a man to divorce his wife and marry another is to commit adultery. That statement, let me repeat, causes "Matthew" to stumble not because of the unsurpassable strictness of the position taken (which was equally un-Jewish, of course) but because of the rather technical point that, according to the strictest and most proper Jewish usage, the sin of a married man with an unmarried woman was not termed adultery. Assuming the correctness of the textual results attained in Chapter I, he twice stumbled at this un-Jewish mode of expression, and in order to avoid it, twice recast the sentence to cover essentially the same point in language consistent with the most precise Jewish usage by making our Lord say that a man who puts away his wife *causes her to commit adultery*.

That form of the statement implies, as much as the form he found in his source, that the woman is still married to the

man who pretends to put her away. In fact, if anything, the very proof that we find here of his care about precision of terminology would make the inference even more inescapable. But the recast form of the saying forced him to add the "exception-clause" both times, in order to cover a possible case in which the husband did not make his wife an adulteress, because she was already one. I shall discuss thoroughly in Chapter III the contention that the un-Jewish form of the statement is fatal to its historicity as a genuine saying of the historical Jesus. But there can be little doubt that the form of the saying in which the sin of the *husband* is called adultery was the form in which the saying occurred in "Matthew's" source, whether that source was Mk. or Q, and whether or not the saying in that form is really historical.

23. On the other hand, it is very probable that the opening question is historical in the form found in "Matthew" rather than in Mark. There was no known school of thought in contemporary Judaism which disputed that divorce (and to all ancient peoples that meant divorced coupled with the right of remarriage, for divorce *a thoro et mensa*, as we now call it, was unknown in those days) was legitimate under certain circumstances. The only question was, "Under what circumstances is divorce right?" A very strict school, following the great rabbi Shammai, maintained that adultery (or, some scholars maintain, pre-marital unchastity) was the only legitimate ground. The lax school, following the great rabbi Hillel, said that almost any cause was legitimate. Both schools agreed that the issue turned on the correct meaning to be assigned to the "unseemly thing" referred to in Deuteronomy 24:1. But no one held that divorce was completely forbidden. Consequently, the question in the qualified form is far more likely to be historical than in the unqualified form found in St. Mark. In fact, in the qualified form found in "Matthew", it is probably an attempt by a member of the strict school, who speaks contemptuously of the Hillel position as sanctioning divorce "for any (*or every*) cause", to gain the support of the new prophet for the position of his school of thought on the point.

Bishop Kirk and others reject this conclusion on the ground that it transforms the whole narrative into a successful attempt

to get our Lord to intervene and take sides in the Shammai-Hillel dispute, and thus makes the whole episode certainly apocryphal. This theory would be correct if we were sure that the "Matthaean" form of the question were unhistorical, and had been due to the hand of "Matthew" himself, and had the same purpose as the addition of the "exception-clause", and if the text in 19:9 read "and marries another, (himself) commits adultery" (instead of "makes her commit adultery", omitting the words "and marries another"). But since we have come above to the conclusion that the Origen-B reading of 19:9 is correct, and that the "exception-clause" did not originally have any such purpose as to bring our Lord's teaching into accord with the teaching of the school of Shammai, and only later and accidentally acquired that meaning as a result of being combined with a corrupt reading caused by assimilation to the text of St. Mark, the basis of the objection is completely dissolved. We can, then, recognize the qualified form of the opening question as being what in fact it was—an *effort* to win the support of the new prophet for one side in the burning current controversy, which need not be at all apocryphal—without in the least involving ourselves in the further theory that it succeeded. If it had succeeded, we would, indeed, in all probability, have to pronounce the story unhistorical. But in fact, Jesus surprises not only the questioner but even His own disciples by taking up a position of utterly unheard-of strictness.

24. A second point on which the Markan account is probably of inferior historicity is in the statement in 10:12, "and if she (the wife) shall put away her husband and marry another, she commits adultery". In Judaism, it was not allowed to women to divorce their husbands. But this was possible under Roman law, and St. Mark's is by many recognized as "the Roman Gospel". Hence, this statement is probably to be explained as a Markan alteration of the version found in his Q source, designed to apply our Lord's teaching to Roman conditions, for the benefit of gentile converts, on whom the restrictions of the Jewish law would exert little restraint.

Gore and Box, following Burkitt, and in agreement with many other scholars, past and present, have defended the historicity of the Markan form of this saying, by supposing that

it applied to the infamous cases of Salome and Herodias. I think they have been able to show that this is at least possible. Nor can I see that Dr. Easton disposes of their argument by saying that "she was universally regarded as an apostate, whose actions were outside the law." It is quite possible that our Lord might have made a pointed condemnation of her, all the more because she was an apostate, and especially because of her part in bringing about the death of St. John the Baptist. But while I think they have showed it to be perfectly possible, yet I cannot think that they have made their view probable. The explanation of the passage given in the preceding paragraph is more likely.

It is not as if we had only to answer the question whether the Markan form of the statement could possibly be historical, if it were the only form in which the statement had come down to us. For we have seen that both Mt. 5:32 and Lk. 16:18 present us with a different form of the saying, in which they substantially agree, thus indicating that in this passage they are probably dependent on Q. Further, we have come to the conclusion in Chapter I that originally Mt. 19:9 read almost exactly as do Mt. 5:32 and Lk. 16:18. If so, it is far more likely that Mt. 19:9, Mt. 5:32, and Lk. 16:18, all in substantial agreement, represent the only Q form of this logion, (if it occurred only once in Q) than that Mk. 10:12 alone does so. On the other hand, if Q contained the logion more than once, it is not likely that it would contain it in a different form the second time. It is therefore certainly probable that if there was a Q source to Mk. 10:12 and Mt. 19:9 and distinct from the Q source to Mt. 5:32 and Lk. 16:18, the Q version read as we have decided the original text of Mt. 19:9 read, and not as Mk. 10:12. It is certainly very unlikely that the second occurrence of the logion in Q would read in a way which neither Mark nor "Matthew" has preserved, even approximately. Finally, it is not likely that both Mark and "Matthew" would have given what seem to be parallel logia, or forms of the same logion, at the same point, if Q had contained nothing at all of the sort at that same point. We come, then, to the conclusion that Q contained this saying at least once, in the place indicated by Mt. 19:9 and Mark 10:12, and contained it in the form found in Mt. 19:9, on the reading we have accepted in Chapter I. If this same passage is not the

source of Mt. 5:32 and Lk. 16:18, then Q must have contained it a second time, apart from its context in the whole divorce narrative; and if it did so, it occurred that second time in substantially the same form as in Mt. 19:9, since in all three derivative passages it is substantially the same saying.

Thus, we have in one side of the scales only Mk. 10:12 and in the other side at least one and probably two occurrences of the logion in Q, supported by the fact that both "Matthew" and St. Luke have accepted the saying in the form given by Q entirely without demur. Hence, even if Mk. is not here dependent on Q, still the weight of the evidence against him, coupled with the argument from probable Roman influence, is sufficient to force us to prefer the Q form of this logion to the Markan form, as more likely to be historical. And if Mark is here dependent on Q, the argument is even more overwhelming. In no case is it in the faintest degree likely that all three of the other passages are "corrections" of, and therefore dependent on, the form we find in Mark 10:12. Only desperate wishful thinking could have ever suggested such a hypothesis.

25. Still a third point on which I think we must give the preference to the Matthaean version is in the order of the separate parts of the narrative. In "Matthew" we have Christ first of all going straight to the heart of the matter with His appeal to the passage through which God had mediated to His human mind His convictions against divorce, and with His statement of His teaching on the basis of that passage. Then His *opponents*, as an *objection* to His teaching, appeal to the passage in Deuteronomy, on which both contemporary schools believed the issue to turn. Jesus, in rebuttal, disparages that passage as a concession to the hardness of men's hearts, and as contrary to what had been "from the beginning". Now surely this order is much more likely than the Markan account. The latter represents our Lord as raising the subject of the Deuteronomy passage, which was in reality a liability to His case, and not an asset. Then He has to disparage the passage to which He has seemed to appeal, and only after all this to fall back on the passage in Genesis, on which His position really essentially depends for its Scriptural strength. Surely, the "Matthaean" version is the more natural and likely.

26. A fourth point in which we must surely prefer the Matthaean account is that it represents the Pharisees as saying "Moses *commanded* us" and our Lord as correcting them, in effect, by substituting the word "suffered" for "commanded", thus saying in effect, "Moses did not *command* you that, he only permitted it; and he permitted it only because of the hardness of your hearts". But in the Markan account, the word "commanded" is put on our Lord's lips, and the Pharisees are represented as weakly replying with the words "Moses *suffered* us etc." There can, I think, be little doubt which of these two representations is the more likely to be historical.

27. Finally, the order in which St. Mark has pieced together the separate parts of his total narrative has resulted in getting the wrong clause before the clause "And I say unto you that whosoever shall divorce his wife etc." This quite appropriately challenges and corrects the error rejected with the preceding words, "But from the beginning it was not so". But as a result of St. Mark's rearrangement of the order of the discrete fragments of the narrative, he has come to the above-mentioned saying with the saying, "What therefore God has joined together, let not man put asunder." To attach the former saying immediately after the latter would be very crude and rough. To connect it by the words found in "Matthew" and in all probability in Q also—"And I say unto you"—would not be much better. So St. Mark has to resort to the editorial device of making our Lord add the left-over saying from his source in a subsequent conversation privately "in the house", which gives Him a chance to "start over" so to speak. In this way, the transition to the closing logion is made less literarily barbarous. When coupled with the other reasons already studied, this only strengthens the impression that on the whole, the Markan account is much the less likely of the two to be historical.

28. Of course none of this undermines the historicity of his narrative on the main point of the *substance* of our Lord's teaching as to divorce. On that point, if we look at the forest as a whole instead of scrutinizing too closely the individual trees composing it, we get at the same result in every case. Whether we take the Q account as I have been reconstructing it, or the Markan account, or the isolated verse which is all St. Luke gives us on

the subject, or the short "Matthaean" version in the Sermon on the Mount, or the longer "Matthaean" version which (on the basis of the text as we have reconstructed it) we have just shown to be on the whole superior to the Markan account, we get the same teaching of the indissolubility of marriage, without any exceptions whatsoever, which we find to have been also the teaching of the New Testament Church as exhibited in St. Paul, who explicitly says he is basing his ruling on the teaching of Christ, and who is decisively confirmed by the fact that for at least three centuries, if not longer, not a single orthodox Church writer, let alone one of repute, can be found to favor or even to tolerate the view that it is possible for the spouse of a living partner, though divorced by human law, to remarry without committing adultery.

I think that what we have in the Markan account is the result of St. Mark having read over the Q account in his source and then having reproduced it, not by a process of minutely copying every phrase but from memory. In the process, his memory had been influenced quite naturally by what he has heard St. Peter and perhaps others tell and retell many times and what he himself has likewise told and retold many times, sometimes more fully and sometimes less. He knows the substance of the narrative so well he does not feel any need of minutely and laboriously copying out the *ipsissima verba* of his Q source. At the same time, he inadvertently produces slight historical inaccuracies which we have been able to detect with the help of our parallel account, and which are of exactly the sort we should expect if they are due to the causes to which I have just attributed them. His account is, then, a witness first of all and most indisputably to the belief and practice of the early Church on the point. But in addition to this, we have already seen some reasons and we shall see still further reasons later for concluding that it is a *substantially* reliable representation of the actual teaching of the historical Jesus though not of course our primary source or our most literally accurate account as to the details. That honor belongs to the Q account, as we have reconstructed it above and shall, after a little, write it out *in extenso* below.

29. I owe a great deal, in what I have written so far in Chapter II, to the two books of Dr. R. H. Charles. The earlier

one is entitled *The Teaching of the New Testament on Divorce*. The latter is named *Divorce and Nullity*. With the characterization of these books as extremely perverse, which if my memory serves me right I have found in more than one of his critics, I am forced to agree. It will be necessary to examine his main thesis later on in this book, and to show how extremely arbitrary and improbable it is. Yet despite these crucial defects, his theory of the correct reading of Mt. 19:9 seems to me right, and his argument against the dependence of "Matthew" on Mark is so strong and so thoroughly done that I hope I may be excused for referring to it any reader who still remains unconvinced after reading my own much briefer statement of the case.

30. In closing this chapter, I shall reproduce in English the Q source of Mt. 19:1-12 and Mk. 10:1-12, as we have reconstructed it above in this chapter. In doing so, I shall not pause to indicate doubtful alternatives on minor points that make no material difference in the meaning of the account. Our version of Q is as follows:

And there came unto Him Pharisees, tempting Him and saying, "Is it lawful to put away one's wife for every cause?" But He answered them and said, "Have ye not read that He who made (them) from the beginning made them male and female, and said, 'For this cause shall a man leave his father and mother, and shall cleave to his wife, and they two shall be one flesh.' So that they are no longer two but one flesh. What therefore God hath joined together, let not man put asunder." They say to Him, "Why then did Moses command (us) to give (her) a bill of divorcement, and to put her away?" He saith unto them, "Moses, on account of the hardness of your hearts *suffered* you to divorce your wives, but from the beginning it was not so. And I say unto you that whosoever shall put away his wife and marry another commits adultery, and whosoever marries a divorced woman commits adultery." The disciples say unto him, "If the case of a man is so with his wife, it is better not to marry." But He said unto them, "Not all are able to receive this saying, but they to whom it is given. For there are eunuchs which were born such from their mother's wombs, and there are eunuchs which were made eunuchs by men, and there are eunuchs which made themselves eunuchs for the sake

of the Kingdom of Heaven. Let him that is able to receive it, receive it."

31. Last of all, I would say that, in case anyone still insists on taking the view that the Markan account is our primary source, and that the only thing Q contained on the subject was the brief statement reproduced in Lk. 16:18, the main results as to the actual words used by the historical Jesus will be the same. For if Mk. is not dependent on Q, that will not answer the arguments given above to prove that his account is historically inferior to that found in Mt., always excepting, of course, the recast form of the saying that contains the "exception-clause". It would not be at all likely that "Matthew" would make so many real improvements on Mark by accident. We would, then, have to suppose that he had independent sources of information which were, at least on this point, superior to Mark. It would not matter, for our purposes, whether this source was Q, or M, or oral tradition.

Neither would it affect our main results if one insists that Q had nothing at all on the subject. In that case, Lk. 16:18 will probably come from L or from an oral tradition which this good historian was willing to trust, and Mt. 5:32 plus his improvements on his Markan source will probably come from M or some oral tradition which is proved, by the arguments developed above in this chapter, to have been superior to Mark on its own intrinsic merits. So while the evidence might not be quite as strong, it would still be very weighty, and would yield the same historical results.

Chapter III

THE HISTORICITY OF THE CRUCIAL LOGION

32. Before we can pass on to the consideration of the meaning of the words we have seen reason to attribute to the historical Jesus, we must consider at length a very important attack that has been made on the historicity of the logion "Whosoever shall put away his wife and marry another commits adultery, and whosoever marries a divorced woman commits adultery." The attack proceeds from the pen of Dr. Burton S. Easton, of the General Theological Seminary. He argues that this saying, in all the forms in which it has come down to us, is unhistorical as a genuine saying of Jesus. We must summarize and then consider his reasons. For the importance of this logion in determining securely the meaning of Jesus is supreme.

33. We ourselves have already given reasons for holding that the Markan form of the second clause of the saying is not historical, but adapted to Roman conditions, since it presupposes the power of a woman to divorce her husband. We have also given reasons for supposing that the "Matthaeian" form of the first clause of the logion has been recast, not only as to the inclusion of the "exception-clause" but as a whole, in order to avoid the un-Jewish mode of expression which the Q version, as preserved in Mk. and Lk., contained. Consequently, it too is unhistorical. To this extent, then, we must agree with Dr. Easton.

But he goes on to hold that the logion is unhistorical even in the form in which it is found in Lk. 16:18, and which we decided above to be substantially identical with the form in which it occurred in the Q source of Mk. 10:12 and Mt. 19:9. For this part of his case I can see no sufficient justification. It is obligatory, therefore, to state and criticize his arguments, the first of which may be summarized thus: For Jews the term "adultery"

had a narrow technical meaning which was divinely fixed forever by Leviticus 20:10. An unfaithful wife was an adulteress, but an unfaithful husband became an adulterer only if his sin was with a married woman. Hence no Jew could have uttered the saying ascribed to Jesus by Luke.

34. In reply I would say that I have no doubt that the term "adultery" had among first century Jews (and still has) the narrow technical meaning given in Leviticus 20:10. But even there it is not said that nothing else is adultery but only to sin with another man's wife. Letting that pass, however, it is not at all unthinkable that there should have been another and less narrowly technical usage of the term alongside the first. There is, certainly, among us. People often speak of the sin of fornication as "committing adultery." This probably arises from the fact that the Seventh Commandment uses the word "adultery" and yet is admitted to forbid fornication. Not only is it likely, *a priori*, that the same would have been the case among first century Jews, but in addition, there is, I think, definite evidence of this.

First, there is the way our Lord quotes the Seventh Commandment in the passage about the "rich young ruler." Here the verb, "to commit adultery," is used, but it certainly was not intended to have the narrow technical connotation Dr. Easton demands. Second, in Matthew 5:27, the same word is used, both in quoting the commandment and in applying it to the case of looking upon a woman to lust after her. Here nothing is said to require that either the man or the woman be married. Now if this still wider usage of the term was possible, *a fortiori* the less extended usage at which Dr. Easton stumbles would be possible. I am glad to have the agreement of the distinguished Jewish scholar, Dr. Louis Ginsberg, to my contention that the existence of a narrow and strictly technical usage in no way excludes the possibility of a non-technical usage alongside it. Apparently, then, even an ordinary first century Palestinian Jew *could* have used the word "adultery" in a different sense from the one given in Leviticus 20:10, though this was not usual.

35. But Jesus was by no means an ordinary Jew. He believed Himself to be nothing less than God's Messiah, and

the most exalted kind of a Messiah at that. He considered Himself to be fully inspired by God. He had the tone of infallibility in His teaching. He did not at all hesitate to correct the Old Testament when it was wrong or inadequate. On more than one point something "was written", but He "said unto them" something very different. Matthew 5:27 contains a strikingly genuine saying, and one that extends the commandment much further than the saying in Luke 16:18 extends the Levitical definition of adultery in the technical sense. Nor would Jesus be at all bound by the fact that the oral tradition adhered to the narrow letter of Leviticus in its technical definition of adultery. And the passage itself, as noted above, is by no means clear and explicit. It does not say that for a married man to be unfaithful with an unmarried girl is not adultery; or that a married man can commit adultery only against another married man, but not against his own wife.

No doubt the property conception is historically the root of the narrow definition of adultery given in Leviticus and preserved in the constant Jewish tradition. But it is doubtful if the historical Jesus would have known this point in his human mind, and still more doubtful that He would have accepted the root conception, even if He had known this. In fact, it is not at all difficult, but rather wholly in line with all else we know of Him, to imagine Him sweeping aside such a distinction with the same contempt He shows in Matthew 23 and elsewhere. I think we can be quite sure that His attitude would be that it is sheer nonsense—and worse—to say that for a wife to cohabit with a man other than her husband is adultery, but for a man to cohabit with a woman other than his wife is not adultery. After all, the Seventh Commandment (Anglican enumeration) used the word; and is it at all conceivable that He could, that being the case, have shrunk from applying it to the sin of a husband in such a case? Would not his sin be a violation of that Commandment? And if so, why imagine that Jesus would grant the point that really matters, but insist on calling it by another name?

36. As a matter of fact, Dr. Easton himself admits that "abstractly, of course, it is conceivable that it was Christ Himself who first used 'adultery' in this new sense, and so raised

woman to man's plane." But he finds the evidence of the First Gospel decisive against this. His argument is that the First Evangelist has been at great pains to correct the non-Jewish form of the saying in Mark and Luke (if he knew the latter form). But if Christ had first used "adultery" in this non-Jewish sense, "Matthew" would simply have cited the Lord's words directly, and would not have had recourse to so round-about a device. Let us cross-examine this, his second argument.

37. We have already expressed agreement with Dr. Easton to the extent of concluding that "Matthew" has recast the form of the first clause of the logion which lay before him in Q, and that his reason for doing this was the un-Jewish mode of expression it contained. But I am completely at a loss to see how this proves anything against the historicity of the saying, unless some flaw can be found in the argument presented above to show how possible it is that Jesus should have spoken thus. As I have already pointed out once before, "Matthew" would have no idea that his sources were infallible, or even, in all probability, inspired. If, then, he found anything in them which he thought our Lord "must not have said" he would probably either omit it if he thought the whole saying to be spurious, or else attempt to "correct" it into what he imagined must have been "what Jesus must really have said". That he has chosen to "correct" the Q version of this logion shows that he did *not* doubt its substantial accuracy, but only the precise form in which it had come down to him. But even if he had doubted it *in toto* (and in that case he would almost certainly have treated it differently) that would not in the least prove that he was right in doubting it.

Dr. Easton is right in thinking that "Matthew" stumbled at the un-Jewish mode of expression. He is right in thinking that the Evangelist did not know from any other source a version of the logion which satisfied him better, or he would have replaced the Q form with the less troublesome form. He is right in thinking that we owe the present Matthaean form of the saying to "Matthew" himself. But all of this leaves us exactly where we were when we began. We can say with confidence that the "Matthaean" form of the first clause of the logion is not historical. But we have no sound reason for

believing that the Q version, supported as it is by St. Mark, St. Luke, and St. Paul, and (as to its second clause) by "Matthew" himself, cannot be fully and completely historical.

This is not by any means the only case in which "Matthew" has stumbled at a saying attributed to our Lord, without being in the right. The most famous case, in all probability, is the way he has similarly recast the troublesome logion, "Why callest thou me good? There is none good save one, namely God." In the present case, his reasons for stumbling seem to have been the same as those at which Dr. Easton has stumbled. But we have seen above that Dr. Easton practically confessed himself unable to make his case stand up except with the help he supposed himself to be able to derive from an argument based on the way in which the First Evangelist has treated the logion in question. We have now seen that this second argument will not stand up either. The correct inference is that both the First Evangelist and Dr. Easton have stumbled gratuitously, and the historicity of the Q form of the saying stands unscathed.

38. I think we have already seen enough to justify us in concluding as in the last sentence of the preceding paragraph. But since the saying is of such great importance in rendering impossible an erroneous but very popular misinterpretation of what our Lord meant, I shall give still further reasons in support of that same conclusion. For one thing, it is quite possible, and some of us think it definitely very probable that the Apostle, St. Matthew, was the real author of Q, though he is not the author of our present "Gospel According to Matthew." If so, two good Jews, St. Matthew and St. Mark, knew, accepted, and recorded the logion in the form at which the First Evangelist stumbled. They must have known, as well as he did, that it was "un-Jewish". What they probably knew, in addition to this, being better informed in their own right than he was, was that Jesus had contemptuously swept aside the casuistical distinction, and had treated man and woman as being on exactly the same level in this matter.

In all probability, we are justified in adding St. Peter and St. Paul as two additional and even more eminent examples of whom exactly the same could be said. For the former is

probably one of St. Mark's chief sources of oral information. And the latter seems to have known our Lord's teaching in a form that included this logion. I deduce this from the fact that St. Paul is not absolute in forbidding separation, but only in forbidding remarriage after divorce. If he had accepted an account which contained the two sayings Dr. Easton accepts but not the one he rejects, it is very probable that his attitude must have been different. At least it is certain that if he accepted only the first two logia, he interpreted them as meaning exactly the same thing as the logion Dr. Easton rejects. It is even possible that (as suggested by the occurrence of the disputed logion apart from any context in Lk. and in a context probably artificial in Mt. 5:32) that this saying was, in the early Church, for pedagogical purposes, frequently separated from the narrative in which it historically occurred, and was taught to all converts, and especially was handed down to all teachers, as expressing admirably the distilled essence, so to speak, of our Lord's whole position and teaching on the subject. If so, it is possible that it is the only part of our Lord's teaching that St. Paul "had received." At least it was a part, if not the whole, of the "saying of the Lord" on which St. Paul based his rigid rule.

39. If by any chance those are right who think that St. Mark was the sole source of "Matthew" in this passage, the latter had some excuse for stumbling, for as we have said before, St. Mark has altered the second clause of the logion to adapt it to Roman conditions, under which a woman could divorce her husband, and in addition has probably added an unhistorical phrase to the first clause in the words "against her". But I dispute the source-criticism which is the basis of this particular point.

40. If it were to be suggested that the reason "Matthew" doubted the accuracy of the saying in the precise form in which it came to him was because it was not contained in his tradition, we would be able to reply that he shows very little evidence of having an abundant and reliable tradition, except for his written sources, Mk., Q, and (more disputably) M. And at least two of these contained the saying in the form at which he stumbled.

41. If by any chance someone were to suggest the theory that "Matthew" had the saying in three different forms in his sources—the Markan form, the Q form as we find the saying in Lk., and the form he actually reproduced in M—and has deliberately preferred the M form because it was more Jewish, I would reply that this would prove nothing against the historicity of the Q form of the logion. On the hypothesis just stated (which seems to me almost infinitely improbable as a theory of source-criticism, for the reasons set forth in Chapter II) "Matthew" has simply followed his usual *tendenz*. His preference proves nothing. For his reputation as a historian and a handler of his sources, even if it be enhanced a bit by our results in Chapter II, is not such as to justify anyone in preferring his judgment to the combined judgments of the author of Q, and St. Mark, St. Luke, and St. Paul.

42. Moreover, if one did so invert the usual opinion of critical historians, one would be justified only in preferring *as historical* the form of the logion we find in "Matthew", not in using his (*ex hypothesi* right) preference to justify one in rejecting the common version of the logion, without accepting the one maintained to be rightly preferred. So one would not after all be rid of this foundation-stone of the doctrine of indissolubility, but would still have to accept it as historical in a form which implies that doctrine just as certainly as the form I believe to be historical. What profit?

43. Nor would the fact that the saying has acquired a more Jewish form in a very strongly Jewish tradition prove anything whatsoever against its historicity in the form that gave offense—except that it gave offense. And that proves absolutely nothing.

44. Finally, even if we had valid reasons for rejecting every single form in which the logion has actually come down to us, we would still be bound to deduce that more probably than not *some such* saying, in some form that was historical, must have been uttered by the historical Jesus. For it is not legitimate historical method to suppose gratuitously that so much evidence¹ completely misrepresents the truth when a much less drastic

¹ We have the testimony of all three of the Synoptic Gospels, and in all probability of St. Paul and Q, and quite possibly of the Fourth Gospel as well, that at least some such saying of Jesus was known to the writer.

supposition will suffice to explain all the phenomena—the supposition that the genuine saying has undergone transformation in all its extant forms.

45. Moreover such reasons as are assignable against the strict historicity of the first clause of the disputed logion, weak though we have seen them to be, are totally inapplicable to the second clause of the same logion, which says that it is adultery for a man to marry a divorced woman. Even on the strictest Levitical definition it could be said that the sin of the man who married a divorced woman is adultery, if it is any sin at all. In fact, it would not be a sin at all, but lawful marital relations, except on the premise that the woman was still, despite the “bill of divorcement”, the wife of the original husband. And on that premise it would not be fornication, but adultery against the first and only real husband. Now this crucial saying is found, with only inconsequential variations, in all versions of the logion which have survived, if we accept as true the conclusions as to the text of Mt. 19:9 reached in Chapter I.

Consequently, even if we had to reject or at least doubt the strict historicity of the first clause of this logion in all its extant forms, the parallelism between the second clause and the first clause, and the very strong attestation of both clauses, and the complete freedom of the second clause from any sound objection would combine to give further and strong support to the theory that the first clause of the logion must be historical in some form, even if not in any of the precise forms now extant, and that in that case the second clause should be accepted as strictly historical exactly as it stands.

46. But if one could still find reasons for denying that the first clause of the logion is historical in any form at all, and not only in any of its extant forms, its existence has still to be accounted for. And that could be done more plausibly by supposing that the second clause of the logion was a genuine saying, unanimously contained in all the local traditions, and that the first clause had arisen by paralleling to the second clause, to make it clear that the same principle applied to men, than by the supposition that the whole logion, as strongly attested as it is, is completely unhistorical in both its clauses.

47. So our final conclusion, in summary, is that the case against the historicity of the first clause of the logion breaks down completely, and there is not even a pretended separate case against the second clause. But if the case against the first clause were valid in all its extant forms, it would still probably be historical in some form now no longer extant. Finally, even if the first clause were completely unhistorical in any form, the second clause would still probably be historical anyway. The importance of these conclusions for the final interpretation of our Lord's teaching is tremendous and vital.

48. In a letter to *The Living Church* for October 2, 1940, Dr. Easton undertook to answer the arguments used above in this chapter. I must notice certain of his arguments out of respect for his great name, even though they seem to me quite devoid of weight. The answers here given were published in substance in the correspondence columns of the same periodical for October 16, 1940. Since there has been no further attempt to answer them by Dr. Easton or anyone else on his side of the question, and since the matter is clearly one of great importance, I think we are safe in concluding that there is nothing further of weight to be added on his side of the question. If this inference is wrong let us have it refuted by the presentation of the additional evidence.

49. Dr. Easton maintained that Mt. 5:28 is irrelevant as attesting any broader and non-technical use of the term "adultery", "for Christ is speaking of normal conditions, not of exceptional circumstances; as Jewish girls married very young, the vast majority of women were wives. Desire for an unmarried woman not only could not be called 'adultery' but need not even be reprehensible; can a youth who desires to make a maiden his wife be said to sin or—still less—be called an 'adulterer'?"

In reply, I cannot agree that Mt. 5:28 applies only to lusting after married women, and that our Lord would have spoken differently if He had remembered that some unmarried women are the object of lusting. In my opinion Christ intended to condemn any desire, voluntarily entertained, for sexual pleasure with a woman not one's wife. Anyone hearing many confessions knows that this problem arises among the unmarried at an

age even earlier than that at which Jewish girls usually married, and also on the part of married men toward unmarried girls. This is not at all the same as the perfectly lawful desire to marry a maiden. Dr. Easton's plea seems to me to be an arbitrary and completely unjustified narrowing of our Lord's meaning in the interest of saving an untenable theory. What Christ meant was that such lusting, by *anyone*, toward *anyone* not his own lawful wife, is a violation of the Seventh Commandment, which used the word that Dr. Easton maintains could not refer to any sin except the sin of a married woman, or of a man (whether married or not) with the wife of another.

50. Dr. Easton also urges that in any case "Lk. 16:18 is so carefully balanced a verse that 'adultery' cannot be taken differently in its two clauses; it treats wife and husband on exactly the same plane." I certainly had no intention of saying that the passage does not *de facto* mean this, nor do I believe I have done so inadvertently. I think that is just exactly what Jesus did—to treat them both exactly on the same plane.

If, however, there were any validity in the objection that Jesus could not have used the term as meaning *exactly* the same thing when applied to the sin of the husband as when applied to the sin of the wife, we could still not legitimately use the objection to disprove the historicity of the whole logion. For it would certainly be possible to take the term "commits adultery" as meaning no more than "violates the Seventh Commandment." So even if the meaning were not *exactly* the same in both halves of the verse, the meaning in the first half would be a *less* extended sense than we find in Mt. 5:28 and in the meaning of the Seventh Commandment as quoted to "the rich, young ruler". Hence, if it were possible for Jesus to employ the term "adultery" in the even more extended sense found in those two passages, it would *a fortiori* be possible for Him to use it in the less extended sense mentioned above as *possible* (though not, I repeat, in my opinion *correct*) in Lk. 16:18. And if it could be historical in that slightly extended sense, it would certainly not be legitimate for us to insist on taking it in *exactly the same* sense, and then using this sense as a proof that the logion is unhistorical.

51. This proposed meaning would, to be sure, make the term, *in the first instance*, generic rather than *specific*. By that I mean that it would mean "*some* violation of the Seventh Commandment" rather than just precisely "adultery" in the sense in which the latter is a sin presupposing that the sinner is married, or else is sinning with one who is married. But the ultimate meaning would have to be the *specific* sin of adultery anyway, I think. For it would have to mean *some* specific sin of impurity falling under the genus. Nor could it mean "fornication," which seems to be the only specific alternative to "adultery" that would fit the case. For the remarriage would not be fornication, but lawful marriage, except on the premise that it was invalid due to the impediment of prior marriage. But that premise would presuppose both monogamy and the indissolubility of marriage as implied prior premises. So it would then be the sin of a *married* person, or in other words "adultery" in the Christian sense even if not in the strictly technical Jewish sense. Moreover, the only reason why it matters whether the word does or does not mean "adultery" in the specific sense is because of the bearing of that point on the doctrine of indissolubility. And we saw just above that that doctrine emerged as a clearly implied premise of the logion taken in the sense we are now considering *before* we came to the conclusion that the generic term must after all refer to the specific sin of "adultery". Consequently, even if that result be disputed, the doctrine of the indissolubility of marriage would be unaffected.

52. Dr. Easton next argues that for the meaning which we both agree is the *de facto* meaning of Lk. 16:18 there is no parallel in contemporary Judaism. Therefore the conception originated either in non-Jewish Christianity, where the rights of men and women were more nearly equal than in Israel, or else from our Lord Himself. I, of course, fully agree with all of this, and have no difficulty in accepting the testimony of all our sources except (on this precise point) the First Gospel that it originated with Jesus. But Dr. Easton rejects this alternative because, "If Christ gave this revolutionary teaching, I cannot conceive that His followers could possibly have forgotten it, or that any Evangelist could have wished to change it. But the First Evangelist in 5:31-32—and also in 19:9—has so changed

it as to eviscerate it of its essential character, and has reduced the woman to her subordinate status again. As I do not believe an Evangelist would thus deliberately contradict his Lord, my only solution is that the saying in its Lk. 16:18 form was transmitted to him as genuine, but he realized its un-Jewish character as it stood and tried to correct it into something possible in Judaism. In other instances, undoubtedly, he accents rabbinism more sharply than did Christ, but he does so in good faith."

In reply, I of course do not hold either that the other followers of Jesus had forgotten His revolutionary teaching, or that the First Evangelist *wished* to change what he *thought to be* the actual teaching of Christ. Nor do I dispute that he has *unintentionally* changed it so as to "eviscerate it of its essential character" in so far as he, at least by implication, fails to grasp fully the complete equality of woman with man as *implied* by our Lord's language. But he has not changed, but has carefully preserved, even in his revised *form* of the logion, the truth of the indissolubility of marriage, which is the point with which our Lord was primarily concerned in this logion. The other point was not so much taught as assumed as axiomatic and employed as a premise. So it is not surprising if a member of the second Christian generation, who was not a personal disciple, and not apparently well informed about our Lord's teaching and position apart from the very valuable sources he had at hand, should have—not "deliberately contradicted his Lord" but—thought mistakenly that "there must be something wrong" with the saying in the form in which all his sources contained it, and consequently should have tried to "correct" it into what he thought it must have been originally.

Of course I fully agree that Lk. 16:18 was "transmitted to him as genuine" and that it was its un-Jewish character at which he stumbled. But this proves only that he doubted the historicity of the *form* in which the saying had come down to him, and not its whole substance, which he has made an effort to preserve; with success, as it seems to me. Nor does it go one inch toward proving that this doubt of his was justified. I think we are in a better position to-day than he was to judge whether Jesus could have uttered so revolutionary a saying. As Dr. Easton himself says, in effect, this is not the only case in which he has,

in complete good faith, made Jesus more rabbinical at the cost of making Him less historical. But if it be denied that we are in a better position than he was to judge about such a point, then certainly St. Paul, the author of Q (probably St. Matthew), St. Mark, and St. Luke were, especially when taken together.

53. The rest of Dr. Easton's arguments in that letter seem to me to have no major bearing on the historicity of the logion with which this chapter is concerned, but only with other parts of his total position on divorce which I had criticised in the article to which his letter was a reply. So we need not consider them at this point. I cannot but say, in closing our consideration of his letter, that I am greatly encouraged, and immeasurably confirmed in my conclusions, by the fact that the arguments we have just been studying are the best that can be brought against those conclusions by even so exceptionally brilliant and miraculously learned a scholar as Dr. Easton. And the fact that he has in over three years undertaken no further support of his original attack on the historicity of this vital logion seems to me to provide still stronger confirmation. For Dr. Easton is not the man to let error prevail, if he can help it.

Chapter IV

WHAT DID JESUS MEAN?

54. Having settled to the best of our ability the question of what is the correct text of our authorities, and on the basis of these conclusions the further question as to just what the historical Jesus seems actually to have said on this subject, we now come at last to the greatest question of all. That question is, "What did Jesus mean by the words He seems to have used?" I shall deal with this in five chapters. In the present chapter I shall ask what do His words mean when taken at their face value. In Chapter V I shall show that He made no exception for adultery. Then in Chapters VI—VIII I shall examine a favorite modern contention that we must not take His words at their face value.

55. Let us then ask at once what did the historical Jesus teach on the subject of divorce? His teaching seems perfectly clear, once we accept the view that the so-called "exception-clause" which occurs twice in the First Gospel is, though textually authentic, unhistorical as a saying of Jesus. And since this is one of the most widely accepted and best assured results of modern criticism, I shall postpone to the next chapter the reasons leading to this conclusion. Once this "exception-clause" is excised, the teaching becomes perfectly clear and internally consistent.

56. We must remember that there were two divergent "schools of thought" among the Pharisees on the subject. One was strict and one was lax, but both agreed that the issue turned on the interpretation of the "unseemly thing", which, in Dt. 24:1-3, seems to be assumed as an adequate reason for putting away a wife and subsequent remarriage. The strict school—that of Shammai—held that the words "some unseemly thing" referred to marital infidelity and to that alone. The lax school—

that of Hillel—interpreted the same words very broadly, and allowed divorce for a number of reasons, with subsequent re-marriage as permissible. But, I repeat, both agreed that the issue depended upon the interpretation of those crucial words in the Deuteronomy passage.

Apparently, as said above in Chapter II, the "Matthaeian" form of the question is historically correct, and if so it probably proceeds from a member of the strict school, presumably hoping to secure the public adhesion of the prominent new teacher to his side of the current controversy. The question apparently means, "Is it lawful for a man to divorce his wife for any and every kind of cause (as Hillel and his school say) or only for marital infidelity (as we Shammaites say)?" But the response surprises him completely, for our Lord simply disregards the supposedly crucial passage in Deuteronomy, and appeals (for the answer to the question) to the passage about Eve being made out of Adam's rib in Genesis 2. Not a little taken aback, I suppose, the amazed questioner then asks in effect, "Then what about Deuteronomy 24:1-3?" Our Lord now replies by definitely rejecting the Deuteronomy passage as a concession to the hardness of men's hearts, and as in conflict with God's original will, intention, and ordinance.

57. Now this not only shows that the so-called "exception-clause" cannot be historical; but it also, by the clearest possible implication, excludes the idea that *any cause whatsoever* can make it lawful for a man to put away his wife (and, of course, take another).

58. It is necessary to show how irresistibly we are led to exactly this conclusion by a careful examination of the words Jesus actually used. No doubt it would be pressing language illicitly to contend that the scriptural quotation, "and shall cling to his wife, and the two shall become one flesh," followed by our Lord's comment "so that they are no longer two, but one flesh," admits of no other possible interpretation than the strict and absolute indissolubility of marriage, *if* that quotation and comment stood alone. But even alone that would be at least a thoroughly plausible and likely interpretation, perhaps the most plausible and most likely.

59. However, it does not stand alone. There are four extra points in the context which show clearly that the indissolubility of marriage is what our Lord meant, and what He was understood to mean by those who heard Him.

60. The first of these is "What God has joined together let not man put asunder." The clear implication here is that in every (valid) marriage God, and not merely man, has joined the couple in such a manner as to make them one flesh. It is also clearly implied that in every (pretended) divorce, it is man and man alone who puts them asunder, or at least attempts to do so. I say these two points are clearly implied, because otherwise what He has said in no way answers the question He had been asked. If it is meant that in some cases (of valid marriage) God has not really joined the couple together; or that in some cases of attempted divorce God, in addition to man, has put asunder what He once joined together—if, I say, either of these things is meant, then the question asked is as pertinent as ever, and remains completely unanswered by our Lord. He has, in that case, said nothing more than that men should not *illicitly* allow divorce followed by remarriage. But the very question in dispute between the two contemporaneous schools, and the very question He was asked, was "When is it licit and when illicit?" If He was teaching the indissolubility of marriage, then He has answered the question clearly and definitely, "It is *never* licit to put away one's husband or wife and marry another." If He meant anything else, He has simply evaded the question. And He has connected this prohibition with His "one flesh" doctrine by a "therefore".

61. The second point is that, when He is confronted with the passage from Dt. which clearly allows divorce, but as clearly leaves the way open for the narrowest possible or the broadest possible view as to the reasons which make it licit, He does not Himself interpret the passage as backing His own position, nor does He claim that it is a misinterpretation by which it is made to support either or both of the views of the contemporary contesting schools. He seems rather tacitly to admit that it sanctions divorce. But He refuses to enter into the dispute as to the meaning of the "unseemly thing", because He definitely and completely rejects the whole passage, *even when rightly*

interpreted, and appeals against it, as a mere concession to the hardness of men's hearts, to the true primeval will and intention of God, with which He originally created the first man and gave him a wife, as declared in Genesis 2.

Now if any cause or causes whatsoever make divorce licit, then, on the principles of exegesis prevalent in the first century and which He undoubtedly shared, the "unseemly thing" in Dt. 24:1-3 ought to be interpreted as referring to it or them, and not to anything else. For with the view of inspiration then prevalent, it would be entirely wrong and forbidden to interpret the Scriptures in a way that forced one to hold their teaching false, when it was easily possible to give them an interpretation which could be held to be true. We must remember that interpreters of that age would not be worried with scruples about the strict, literal, historical exegesis of a passage as we rightly are to-day. Once again, then, we see that our Lord must have meant His "one flesh" doctrine to exclude any and every possible alleged justification for attempting to break the marriage bond.

62. The third point is His saying, introduced by His solemn authoritative "But I say unto you," that "*whosoever* shall put away his wife and marry another *commits adultery*." It is cast in universal and unqualified form, which again excludes exceptions. And it is not said simply that the one doing so *sins*, but that he commits the *specific sin of adultery*. Now adultery is possible only to a married person (unless it be *with* a married person, of which no mention is made here, and which is therefore excluded by the universal form of the statement). Hence the inescapably implied premise is that the supposedly divorced man is still really married. But that contention, in a universal proposition, necessarily involves the conclusion that *all divorces without exception* are null and void. And this is just another way of saying, not simply that marriage never *should* be dissolved, and that it is a *great sin* to dissolve it, but that it is *indissoluble*, and therefore an *impossibility* to dissolve it. This third point is the clearest, strongest, and most obviously inescapable of all.

63. It will not help to escape this conclusion to try to argue (as some do) that the word our Lord actually used may not have been specific enough to mean just precisely adultery, as dis-

tinguished from fornication. For in any case, it certainly means a sin of impurity; and the sin is clearly with the new pretended wife. Now it would not, in the case supposed, be fornication, as distinguished from adultery. For *ex hypothesi* the two are married according to human law. Therefore, it is only on the premise that the man is already married to another, making his new "marriage" invalid, that it would be a sin of impurity at all. But in that case it would be adultery and not fornication that is at issue, even if the intrinsic force of the word were sufficiently indeterminate to cover both.

64. The fourth and last point is that the disciples found our Lord's teaching so novel, and of such unheard-of strictness, that they suggest that "If the case of a man with his wife is thus, it is best not to marry at all." Now it is highly improbable that they would have been shocked into so radical an inference by teaching they must have heard all their lives propagated by the "School of Shammai," even if they had not been personal adherents of that viewpoint. Consequently, they must have understood our Lord to adopt a stricter position than even the strictest contemporary viewpoint on the subject (namely, that of Shammai). But only the teaching of the complete indissolubility of marriage could be stricter than the view that it was dissoluble for one extremely grave cause and for that alone. So then, must they have understood Him. And our preceding studies have shown that they were right in so doing.

65. That we have been right in thus interpreting the teaching of Christ is shown by the fact that from the very first the whole Church, with complete unanimity, interpreted Him as we have done for at least three centuries. This interpretation is found already in I Cor. 7, where it is so clear that it is not even necessary to delay to prove the point, though an extremely perverse effort of Dr. Charles to interpret the passage as taking for granted an exception in the case of adultery will be considered in the next chapter.

It is very possible that we find the same teaching in St. John's Gospel, in the discourse of our Lord with the Samaritan woman. For it is hard to see what her having had five husbands could have to do with the man she then had not being her husband, unless our Lord's teaching on divorce is presupposed.

But since it is possible to interpret the passage as meaning that she was at present living with a man to whom she was not married, even in the sight of men, it must remain doubtful whether the passage is relevant. If it is, though, it is perfectly harmonious with all the rest of the evidence of the first three centuries.

If any one remains doubtful about the historicity, as a saying of Jesus, of the logion considered at length in Chapter III, he will be obliged on his own premises to grant as to the presence of that saying in Lk., Mk., Mt., and Q that it at least shows how the Church interpreted the teaching of Jesus, not only in the last quarter of the first century when Mt. and Lk. were probably written, but in the 60's when Mk. was in all probability written, and even earlier, perhaps before the middle of the century, when in the opinion of many scholars Q was first written.

Now we have already seen reasons above in the present chapter, and shall see still further reasons below, in Chapter VII, for concluding that, if the logion which calls the sin of remarriage by a divorced man or woman adultery is a genuine historical saying of Jesus, then the interpretation of his teaching given in the earlier part of this chapter is the only meaning His words will fairly bear. If, on the other hand, it is not historical, then its (*ex hypothesi* mistaken) attribution to Jesus by so many sources at so early a date proves conclusively that, before the deaths of the leading Apostles the primitive Church was already universally deluded into the belief that He had taught the indissolubility of marriage.

66. We have so far noticed only the Scriptural evidence of this. But the testimony of the Fathers of the first three centuries is absolutely unanimous on the point. Not only so, but they will not allow even separation *without remarriage* except on the one ground mentioned in the "exception-clause", though some show a tendency to broaden that particular concession by making it include "spiritual adultery". This, however, only emphasizes the rigidity with which the right to separate was restricted to the one assigned cause. What is more, I cannot find (outside of St. Paul himself) even a case of the "Pauline privilege" in these three centuries. There is an alleged case in the early fourth century, but I very much doubt if it is a real

case. In fact, even where we find evidence of laxity of practice, which is attested in one passage in Origen, it is condemned as "contrary to the Scriptures" and as adultery, so that when Origen suggests that possibly it might have been justified as a concession to the hardness of men's hearts, and as the only alternative to something worse, he evidently means worse than adultery, and does not mean that it is not itself adultery.

67. Nor, of course, does this unanimously received teaching come to a sudden end with the conversion of Constantine. Only one Western writer in the next two centuries speaks clearly in favor of remarriage, and that one—Ambrosiaster—allows it only in the one case of adultery, and only to a man, not to a woman. There are a few others who speak ambiguously, and *may* be making the same exception. But it is not at all clear that they are doing more than quoting Scripture, and in the Matthaean form, which would account for the inclusion of the "exception-clause" in the context where it seems at first sight to imply the right of remarriage in the exceptional case, but very probably was not so intended by the writer.

I would remind my readers of what I have already mentioned above, in Chapter I—that the primitive interpretation of the "exception-clause" was not that it stated the sole ground on which remarriage was licit, but the sole ground on which one could even separate from one's spouse without making oneself morally responsible for any adultery into which the other party to the marriage might fall. In other words, it was based on the "exception-clause" in the context in which it occurs in 5:32 and in the minority of manuscripts of 19:9, which we saw good reasons above in Chapter I to believe to be the original reading in Mt. 19:9 despite the fact that the bulk of the authorities read otherwise. When we remember this fact, we shall see at once that for a writer to quote "Matthew" in the process of expressing himself on divorce and remarriage does not in the least justify the inference that he believed that remarriage was permissible in the exceptional case, even though (just because it was "Matthew" he was quoting) his quotation would have to contain the "exception-clause".

68. After these two centuries, there is a certain amount of laxity in the West, but I think the fairminded scholar must on

the whole agree that it is comparatively slight. Bishop Kirk, speaking of it says, "It is not quite true to say that divorce, with the right of remarriage, has never been countenanced at all in the Latin Church." And he goes on to list the exceptions, showing that, as we should expect, his estimate is not based on ignorance of the evidence. Moreover, the worst of this laxity, if not the most of it, was prior to the great reform of the Western Church and to the Scholastic movement, and was rooted out at that time, though in post-Reformation times some new and alarming developments have taken place. But on the whole the Latin Church and the Anglican Communion, except in this country, have been fairly faithful to the teaching of Christ, the Scriptures, and the ante-Nicene Church.

69. In the East, the facts are much sadder. It is usually held that the declension from the Christian standard came rapidly in the fourth century. I am not at all sure that the evidence for this is conclusive. But if it did not come in the fourth century, at least it did in the sixth and following. And when it came, it came with a vengeance. Nor was there (as in the West) any successful resistance, nor any strict party opposing the laxity throughout, nor any final recovery, at least not so far, though there have been varying degrees of laxity at different times. Perhaps in the providence of God, Who knows quite well how to make the wrath of men to praise Him, this very laxity may some day be overruled to be an aid to the reunion of Catholic Christendom, and so to its own correction. For reunion is always easier if both sides are able to admit that they have been wrong on some points, and yield on those points. And I think that on the whole there are less points on which I could hope to see the East yield than I could find in the Latin Church. But divorce is certainly one.

70. While, however, all this must be frankly admitted, it is necessary to point out certain considerations which keep it from having any evidential value whatsoever against the conclusions we have reached as to the texts of our sources, the words of Christ Himself, and the interpretation we have decided to be correct.

71. 1. A declension beginning in the sixth century, or even in the fourth, but having no valid claim whatsoever to any

continuity of tradition reaching back to Christ, can be of no evidential value as to what Christ said or what He meant. On the other hand a tradition beginning with the generation among whom He lived, and continuing with virtual if not perfect unanimity for several centuries is of tremendous evidential value for that purpose.

72. 2. The reasons for which the declension came, when it came, make the first point even more strong and clear and inescapable. It is purely and simply a case of the influence of the state, and the semi-pagan imperial court, and the flooding of the Church after the "conversion of the Empire to Christianity" with multitudes of ill-instructed and half converted "Christians." Even before the conversion of Constantine the difficulty of curbing the strong passions of all her converts had begun to be considerable of a problem. After the strong wine of ante-Nicene Christianity had become diluted so severely when "the world moved into the Church" the storm became so great that it broke the East and for a while severely bent parts of the West. But there is nothing in all this which has any evidential value against our reading of the teaching of Christ, or of the early Church.

73. 3. In particular, the laxity in practice *precedes* any doctrinal retrogression which can be found, and thus causes the latter, far from being based upon it. This is of crucial importance. Besides, to a considerable extent, the doctrine of indissolubility has continued to receive at least lip-service, from many writers, even in the East. The very doctrine of "moral death" of which advocates of laxity try to make so much is a witness to the fact that the East does not and cannot deny that the doctrine of indissolubility is the true and original Christian doctrine. For the doctrine of "moral death" does not reach back nearly far enough to be assigned as the reason why the East departed from her original strict adherence to the teaching of Christ and the early Church.

74. 4. The "exception-clause" might seem like the one exception to these generalizations. In a sense it is. For it did provide a sort of a doctrinal justification for one sector of the laxity in both East and West, and helped to make it seem less clearly and unmistakably a matter of sheer disloyalty to Christ

and to what had been the teaching of His Church before the storm became irresistible.

But for that very reason it makes our thesis more secure. For we have seen above that, in the form in which it implies the right to remarry, it not only is not a genuine historical utterance of Christ, but is not even an authentic part of the inspired Scriptures at all. Yet when the corrupt reading of Mt. 19:9 widely penetrated and prevailed, it would naturally present a valuable weapon to those advocating a surrender to the world and the flesh on this most difficult point, and a plausible and not by any means always insincere pretext to those whose inclination was to compromise with the demands of the state and the world on the subject. For with the views of Scriptural inspiration then prevailing, it would not be easy to continue to adhere to the tradition when the now prevailing text of Scripture seemed so clearly to sanction at least one exception—and even one exception is logically fatal to the doctrine of indissolubility.

So I think that what is remarkable is that the “exception-clause” did as little damage as it actually did. It speaks volumes for the firmness and fixity of the original tradition that it stood up as well as it did under the terrific strain imposed upon it by the world moving into the Church, and the dominance of the state in the East, coupled with the mischievous potentialities of the “exception-clause”.

75. To resume now the main thread of our argument, from which we digressed when we began to consider the history of the subject in the fourth century and later, we have found the teaching of the Church during the first three centuries absolutely solid, and the later laxity too late to have any direct evidential value for the teaching of Christ, and also of such a character as not to require any qualifications in our conclusion of the solidity of the tradition of the first three centuries. But if so, these facts are of overwhelming weight not only in proving conclusively how the early Church understood Christ, but also in proving that she was right in doing so.

76. For the doctrine of the indissolubility of marriage is an extremely hard saying and one for which, I think it is fair to

say, nothing short of some unchallengeable authority would have sufficed to secure such universal and unquestioned acceptance as we have seen the evidence indicates. Theoretically, the Apostles might suffice as such an authority. But we know, as an actual fact, that they were not conscious innovators. The doctrine must come, then, either from Christ Himself, or else from a complete misunderstanding of Christ. Now in all other cases where it is even arguable that He has been misunderstood, there is some alternative source from which the error (if indeed it be an error) can have and in all probability did come. But in the present case, there was no one in either Judaism or Gentileism who was propagating, or even privately holding, this doctrine. Furthermore, the very question which caused our Lord to make the celebrated reply about the three kinds of eunuchs shows that, from the very first, the Apostles understood Him to have proclaimed a new doctrine, and one of unheard-of strictness. Thus the misunderstanding, if misunderstanding it was, arose immediately and right under His own eyes. Is it conceivable that He should not have seen that He had been misunderstood? Or that He should have been aware of it, and yet have done nothing to correct it? Or that He should have tried and failed?

77. Moreover, the most plausible avenue of escape yet suggested—that of Dr. Easton, which we have studied as to one of its crucial premises in Chapter III, and shall study as to its other main premises in Chapters VI-VIII—requires that the logion which caused most of the misunderstanding should have arisen in gentile circles. But that can only mean that, before this spurious logion and the misunderstanding it has bred came into being, *a different and correct* tradition, based on a *different and correct understanding* of what Jesus had said and meant, must have been prevalent and had full Apostolic sanction. But where, then, can the doctrine of indissolubility have come from at all? *Ex hypothesi* no one held it yet. It must, then, have originated with someone who did not himself hold it; not necessarily as a conscious invention, but as a result of misunderstanding either what he had been taught, or else of misinterpreting the words of Christ which had been handed down to him. But if this is not impossible, at least it is a very unlikely explanation. And when we come to explain how, with such

a beginning, it could have spread and prevailed widely enough and undisputedly enough to gain attestation in every single source including the very early and widely used Q, and could have obliterated every trace of the authentic tradition, and could have done this while the greatest and most authoritative of the Apostles were still alive and presumably avid for the faithful preservation of the tradition that had been committed to them as a sacred trust, and could have done this largely by means of a spurious logion "which no Jew would use or understand", we approach the summit of improbabilities, if not an impossibility.

78. A less difficult theory is that Someone Who had no hesitation about innovating, and even correcting the Scriptures, and no subordination to any earthly superior to impede His liberty of action, and no lack of authority to secure from His disciples the acceptance of His teaching, and an absolutely firm conviction of His own Divine inspiration, and a passage in the God-given Scripture which He believed made the relation of man and wife an even stronger and more irreversible relation than the relation between brother and sister or father and son, which can be treated as non-existent but which still exists all the same—a far less difficult theory, I say, is that Such A One should have originated the doctrine of the indissolubility of marriage and by His authority secured its immediate, universal, and unquestioned acceptance among His disciples. If a Jew could not say or understand what Jesus is reported by all our accounts to have said, at least a great many Jews thought He could have said it, and had actually said it, and that they had understood it. And they all understood it the same way. We shall see in Chapters VI-VIII that there is no sufficient reason to force us to conclude that they were all wrong, and that the explanation of the origin of the doctrine of the indissolubility of marriage which we have seen to be so easy, and so in accord with all the early evidence, is wrong, and the explanation we have seen to be so exceedingly improbable and difficult and so contrary to all the extant evidence is after all correct.

79. The saying is, indeed, a hard saying. But the Authority Who said it is unimpeachable and unchallengeable, and I seem to remember another of His sayings that goes something like, "Why call ye Me Lord, Lord, and do not the things which I

say?" Perhaps we had better take both of these sayings very seriously to heart. If we do not, we may fail to hear Him say, "Well done, thou good *and faithful* servant" when He comes.

Chapter V

THE THEORY OF A SINGLE EXCEPTION

80. I intend in this chapter to state briefly the present situation, and the road by which that situation has come to pass, concerning the theory which was at one time the only serious rival to the view defended in this book—that our Lord taught the absolute indissolubility of marriage. That theory is that He allowed one, but only one, exception to the rule stated just above—an exception in favor of the innocent party in the case of a divorce for adultery. Some, with considerable justification from the generally accepted text, would have limited the concession even more narrowly, and have said, the innocent *husband* only, and not the innocent wife, in such a case.

81. As long as the older view of the Bible and of the manner of its composition and of its inspiration was accepted, the present writer is obliged to hold that the supporters of this view had, or at least seemed to have, the better of the argument from a purely historical viewpoint. For the First Gospel was believed to be earlier than the Gospel of St. Mark, and completely independent of it, and to proceed from the hand of an author who should rightly be deemed an authority superior to St. Mark or St. Luke, or even both combined—the Apostle, St. Matthew. He was an eye-witness in a much more accurate sense of the word than was St. Mark; and St. Luke was not an eye-witness at all. Moreover, it was necessary to take one of two views of the conflicting narratives. Either the accounts were narratives of distinct but similar episodes, or else conflicting accounts of one and the same episode.

82. Now on the former view, since our Lord cannot be supposed to have changed His mind between the times when the two similar episodes occurred, it seemed far more probable that He should have on one occasion, speaking with less preci-

sion than on the other, left unmentioned an exception which He was actually prepared to grant than that He should have on one occasion inaccurately mentioned an exception which was quite contrary to His true mind on the subject. We all of us often leave unmentioned some exception or other reservation which is in our mind, for the pure and simple reason that we do not attempt to speak with complete and exhaustive precision every time we open our mouths on any subject.

83. On the alternative view that we have conflicting accounts of the same episode, the same result would emerge by a somewhat similar line of reasoning. It would be far more likely that one Evangelist or even two should leave out an exception (for the very same reason as that given in the preceding paragraph) than that one Evangelist who was the most authoritative of the three Synoptists (as we now call them) should insert an unauthentic exception which gravely changed the whole character of our Lord's teaching on the point. It was easier by far to read into St. Mark and St. Luke an unexpressed exception than to throw out an exception unambiguously expressed by St. Matthew.

84. This last argument was made even stronger by the universally accepted canon that one passage of Scripture must not be so interpreted as to conflict with another. So the only way out for the upholders of the indissolubility of marriage (which in principle even one exception logically overthrows) was to try to interpret the passage in Mt. 19:9 as not after all, despite its *prima facie* meaning, really implying any right of the innocent husband to remarry after a divorce for adultery. The ingenuity of Roman Catholic controversialists was copiously exercised on this problem, and they were of course obliged by their position to be satisfied with the least unsatisfactory solution they could devise. But their arguments were quite unconvincing to less trammelled scholars, even those who, like Bishop Gore, were favorably inclined toward the Western doctrine and practice on the subject. And the fact that they could not decide which way to take out of the difficulty, but only that some one out of six alternatives must be right, goes far to show that none of the six was really satisfactory.

85. It was while the controversy was in this state that the unofficial tradition among Anglican theologians became so

excusably corrupted. Many, perhaps most of them, even in England where the Prayer Book and Canons were unambiguously on the side of the main Western tradition, taught that adultery dissolved the marriage bond, and that the innocent party in such a divorce could remarry without sin. Under the influence of this state of mind in Anglicanism, our Convention of 1808 set forth a (probably *ultra vires*) amendment by way of "interpretation" of the teaching of the Prayer Book and existing Canon Law. And in 1868 this unfortunate "interpretation" was (with very doubtful constitutionality) formally incorporated into our official Canon Law, where it remains to this day. It is hard not to believe that, on the premises then prevailing, these men were at least subjectively justified in doing what they did, had they only followed the constitutional course of first revising the Prayer Book by the prescribed method before amending the Canon in such a way as to *amount to* a revision of the *teaching* of the American Church without securing the necessary accompanying revision of the Prayer Book also, in which her teaching is chiefly enshrined, by the constitutional method. In view of this neglect, and the fact that it is indisputably unconstitutional to amend the Prayer Book directly by the method which suffices in the case of a Canon, I for one cannot doubt that it is not only unconstitutional but immoral to amend it by *indirection* through the device of a Canon *passed by an easier process* which says, in effect, "Provided, however, that the Prayer Book shall not be interpreted as meaning what it really means."

86. Even more important than the question of the constitutionality of the "exception-clause" in our Canon, however, is the humiliating lesson so promptly visited upon us that it is wrong to base our whole case upon the "appeal to Scripture" without the accompanying safeguard inculcated by the Twentieth Article that "*the Church* hath authority in controversies of Faith." Of course "the Church" in this Article does not mean "this Church" (the Protestant Episcopal Church) but what it says, "*the Church*", that is, the whole Catholic Church. If that test had been applied, the result would have been quite the opposite. And before this chapter is ended, I think we shall have seen that we would have been loyal to Christ by putting on Mt. 19:9 the interpretation given it by the ecclesiastical tradition, even granting, as I have done above, that it would not

be sound exegesis. On the other hand, by basing our decision entirely on sound exegesis and disregarding the interpretation supplied by the ecclesiastical tradition, we were (unintentionally) disloyal to Christ. The explanation of this apparent paradox is due, of course, to the fact that, as shown above in Chapter I, the text of Mt. 19:9 had become corrupt in the great majority of the manuscripts. But the interpretation supplied by the ecclesiastical tradition had been derived from the text in the very early days, before it became corrupted by assimilation to St. Mark's Gospel, and so was truer to the mind of the historical Jesus.

87. But to return to the main course of our study, it seemed that the argument in favor of the exception for the innocent party in a divorce for adultery had all the best of it as long as the older view of the Bible prevailed. But the progress of modern scholarship caused a drastic revision of that older view, and the modern view which took its place changed radically the balance of probability as far as the "exception-clause" is concerned. For one thing, it was soon firmly established that the Second Gospel in our Bibles ("According to St. Mark") was prior to and an important source of the First Gospel, and that the latter was not really written by St. Matthew in its present form. These two results completely undermined the superior authority once attributed to the First Gospel. Moreover, the place of the divorce narrative in the First Gospel, when compared with its place in the Gospel of St. Mark, and in the light of the conclusion that St. Mark was prior to "St. Matthew", proved beyond much doubt that we have here to do with parallel accounts of one and the same incident, not with two distinct but similar incidents. In addition it was established that there was a source common to the First Gospel and St. Luke's Gospel at the points where they are closely parallel, without having any Markan passage on which they can be dependent, and that this source, called Q from the German word *Quelle*, meaning source, may well be the document ascribed by the tradition known to Papias, if not by Papias himself, to the Apostle, St. Matthew. Now a comparison of Mt. 5:32 with Lk. 16:18 led to the conclusion that in all probability both of these passages are dependent on this source Q, so that Q must have contained the saying that remarriage after divorce is

adultery. It could, of course, be maintained as an *a priori* possibility that Q contained the passage in the form containing the "exception-clause" as found in Mt. 5:32 rather than in the form omitting it, as does Lk. 16:18. But against this *a priori* possibility the arguments produced in Section 94 below were decisive.

88. The issue was no longer whether our Lord could have spoken with greater precision on one occasion than on a similar but distinct occasion. Hence, the only problem to be settled was which account of His sayings was to be preferred as the more probably historical, the one making an exception or the one making no exception at all: But once the argument was stated in this form the answer could not long remain doubtful. For on the one side were St. Paul, St. Mark, and St. Luke, and the unanimous early tradition of the Church, and on the other side only the unknown First Evangelist, who was known to be a secondary source, dependent on St. Mark's Gospel and on Q. Thus (leaving out of consideration for the moment Q, because of the possibility of doubt whether it read as does Mt. 5:32 or as does Lk. 16:18) we had two primary sources (St. Paul and St. Mark) and one secondary source (the Gospel of St. Luke, which had won a comparatively high rating at the hands of modern scholarship) backed up by the solid ecclesiastical tradition supporting the view that our Lord uttered no exception, as against one secondary source (the First Gospel, which on the whole had not won as high a historical estimate as had St. Luke's Gospel) which supported the exception. The verdict had to be given in favor of St. Mark and his allies. Nor was it any longer possible to appeal, at least on a purely historical issue of this sort (whatever we may think of its abiding validity in deciding dogmatic issues) to the old canon that one place of Scripture must not be so interpreted as to make it conflict with another. Too many irreconcilable conflicts had come to the light of day, and had stood the test of cross-examination, to make that canon any longer tenable.

89. Besides, the context of the "exception-clause" in the First Gospel itself created grave if not insuperable difficulties for the defenders of the historicity of that clause, even if it had not labored under the enormous handicap developed above

in the preceding paragraph. For one thing, the fact that Christ had not *interpreted* Deuteronomy, but *rejected* it, and appealed against it to Genesis, pointed very strongly toward the conclusion that He had not taken the position of the School of Shammai (which is just what he did, if the "exception-clause" is historical), because that viewpoint was believed at least by its own adherents, to have no difficulty with the passage in Deuteronomy, and there is no reason to think that our Lord, with the pre-critical kind of exegesis current in the first Christian century, would have found it any more difficult than did Shammai. This point is argued more fully in Chapter IV and again later in Chapter VIII, as is also the point following.

90. The amazement of the disciples is also a strong argument against the view required if the "exception-clause" is historical—that our Lord simply took the same position as Shammai. A far more likely explanation of their consternation is the view favored by the other sources—that He had just enunciated a novel doctrine of unheard-of strictness.

91. Further, there are no exceptions made in the warning "What therefore God hath joined together let not man put asunder." There would need to be an exception if the corresponding exception is historical at the point represented by the First Evangelist.

Neither is there any exception to the second half of the same logion. Yet this logion declares the remarriage of a divorced woman, *without any exception*, to be *adultery*. Now we can understand how the remarriage of the woman divorced for adultery could be *forbidden*, as a punishment for her adultery. But it could not be *adultery*, except on the premise that she was already married. But to whom could she be married, except to the husband in whose favor the exception is represented as having been made? And if she was still married to him, he must obviously still be married to her, for a one-way marriage is nonsense. But if he was still married to her, then to allow him to remarry would be to authorize bigamy. I am showing in Chapter X how overwhelming is the evidence against the view that either our Lord or the early Church held this to be allowable.

92. For all of these reasons, it seemed clear that the form

of the saying found in St. Mark and St. Luke, and presupposed by St. Paul, which made no exception whatsoever, must be preferred as historical to the form containing the exception, which is found in the First Gospel only, and even there in a form grievously compromised if not definitely disproved by its own context. It would not be possible to call in the testimony of Q to help redress the balance. For while it is, of course, *a priori* possible that Mt. 5:32 might be the original reading of Q, and that Lk. 16:18 has altered the source, yet this is to begin with at best an evenly balanced probability, and hence could not be used either way. Moreover, for the following reasons, the view that is approximately equally probable from the *a priori* standpoint becomes much less than equally probable after a detailed study of the texts has been made.

93. 1. The fact that "Matthew" has inserted the "exception-clause" into his Markan source at once raises a presumption that he would, for whatever reasons motivated him so to handle his Markan source, handle his Q source in exactly the same manner, if it contained a similar logion. This at once tips the scales in favor of St. Luke's version, at least as to probability.

2. The case against the historicity of the "exception-clause" is so overwhelming, as proved above, that only very strong *a posteriori* evidence could make it probable that Q had the saying in a form so improbably historical, when the *a priori* possibilities or probabilities are at most even; and, after considering the immediately preceding argument, less than even.

3. Both St. Mark and St. Luke must have known the Q version of the logion, even if we have been wrong in Chapter II in maintaining that Q is the source of St. Mark's account. We would thus have, if the "exception-clause" is the correct reading of Q, not only a direct revision of Q by St. Luke, but also at least a preference for a non-Q form of the logion by St. Mark, and in that case probably the preference of the Markan form over the Q form by St. Luke. This is not St. Luke's usual preference, and it is made even less likely in the present case by the Romanized form of the second clause of the logion, on which St. Luke has demonstrably not followed St. Mark. Nor, equally clearly, has St. Mark the same reasons for omitting the "exception-clause" which he had for Romanizing the second clause of the logion. So his departure from Q on this last

point gives no support to the theory that he has deliberately departed from Q by preferring a form of the logion which omitted the "exception-clause."

4. The context differs from the form of the logion found in St. Mark and St. Luke not only in including the "exception-clause" but also in making the sin of the husband to consist in *causing the divorced wife* to commit adultery rather than in committing it himself by remarrying in cases not covered by the exception. But this twist of the logion is intrinsically far less likely to proceed from our Lord than the form found in St. Mark and St. Luke. And in addition it is far less easy to explain why the two latter Evangelists should have altered the "Matthaean" form if that is the original reading of Q than to explain why "Matthew" altered the form of the saying in which our Lord is represented as using the term adultery in an un-Jewish way. The latter point has been developed at length above in the first two chapters. Also, if Christ made an exception to the strictness of His teaching on divorce, then where did the stricter teaching of absolute indissolubility originate? And why? And how did it ever manage to prevail against all the obstacles it would have to overcome?

94. 5. In Mt. 5:32 the "exception-clause" is brought in, as pointed out in our two first chapters, without the added words "and shall marry another." It thus gives no support to the idea that, even in the cases covered by the exception, the husband can remarry. But as a result of this, even if we could accept as probable the view that Mt. 5:32 rather than Lk. 16:18 represents the original reading of Q, we would still have Q on the side of St. Paul, St. Mark, and St. Luke in giving no countenance at all to remarriage after divorce, even in the excepted case. So it would be Mt. 19:9 alone against all these other sources on the main issue, and Q would support the reading in Mt. 19:9 only in adding the words "except for unchastity" but not in the words "(himself) commits adultery", nor in the crucially important added words "and shall marry another."

95. Thus Q cannot be made to support the case of those who believe that our Lord allowed remarriage to the innocent man (*only* apparently; unless the same privilege could be extended to the wife, in a similar case, by parity of reasoning) in a case

of divorce due to adultery. So the last hope of saving the case was gone, and it became one of the most assured results of modern critical study of the Bible that Jesus made in His own historical teaching no exception at all in favor of the innocent party in a divorce for adultery.

96. In this summary of the case, as it stood at that stage of the progress of modern scholarship, I have for the most part followed the extremely valuable and cogent little book of the late Dr. Stuart L. Tyson, entitled *The Teaching of our Lord as to the Indissolubility of Marriage*, (1909). I must refer the interested reader to that book where the case is presented with a detailed thoroughness quite impossible in the present book. There are details in his argument with which the present writer cannot agree. I shall have occasion to point out below the chief respects in which it has been weakened by the further progress of modern biblical study. It will be seen at that point, I am confident, that on the whole the case against Christ having made the reported exception is even stronger by far today than Dr. Tyson thought, though one of his most important arguments will require revision if I am right in Chapter II of this book in holding that Mt. 19:1-9 is not dependent on St. Mark but on Q. The detailed effect of this point on the argument as a whole will be developed below at the proper point.

97. While the matter stood at this stage, Canon R. H. Charles undertook to defend the thesis that, although the "exception-clause" is not an authentic historical saying of Christ either in Mt. 5:32 or in Mt. 19:9, yet it does in fact correctly represent what Christ really meant. For (he argued) in the case where the wife was divorced for adultery, she would immediately be put to death, and thus her husband would be at liberty to remarry. Hence, he argued, Christ would not have had divorces for adultery in mind in calling all remarriages after divorce adultery. So the exception made by "Matthew" was implicit, or understood, or taken for granted, in what Christ said, though not expressed.

98. I regret that I cannot spare the space to summarize more adequately his arguments. They can be seen in two small books. The earlier is named *The Teaching of the New Testament on Divorce*, (1921); the latter *Divorce and Nullity*, (1927). I have

already expressed above complete agreement with some who have spoken of these two books as "extremely perverse." Dr. Charles' error (as I cannot but consider it) arose from failing to distinguish between the case in which the woman and her paramour are "taken in the very act" for which the death penalty was prescribed by the Jewish Law, and cases where this was not true, in which some lesser penalty was imposed. This failure alone was enough to vitiate his whole argument, for it meant that in many cases there would have been divorces for adultery in which the adulterous wife was not put to death.

Another fatal flaw in Dr. Charles' argument was that he maintained that the power to inflict the death penalty was not "taken away" from the Sanhedrin until 30 A. D. and thus was still in force in the time of Christ. This depended on an impossibly literal interpretation of a saying of one of the later rabbis that the right of capital punishment was taken away from Israel forty years before the destruction of Jerusalem. The term "forty" in such contexts cannot safely be taken to mean "exactly forty" as distinguished from some other neighboring number.

More serious still was his failure to take adequate account, at least in his earlier book, of the fact that the death penalty was obsolete, or almost obsolete, in the time of Christ, at least for adultery. This also would have been fatal to his contention. 99. He also had to make a conjectural emendation in the text of I Cor. 7:11 and omit the crucial words "but and if she depart, let her remain unmarried, etc." Now there is absolutely no trace of external evidence in favor of this emendation, and no really weighty internal grounds for it. Also there were other fatal weaknesses in his argument. I cannot think it worthy of more detailed and serious refutation here. Besides, a very satisfactory brief answer to him was produced by Dr. E. G. Selwyn in *Theology* for 1927, and a much more complete answer in a small book done jointly by the famous Bishop Gore and Dr. G. H. Box entitled *Divorce in the New Testament* (1921). However, while I think that these replies are as a whole quite decisive and smashing, I must, for the reasons set forth in Chapter II above, dissent from the portion of their argument which rests

on the view that Mark 10:1-12 is the source of Mt. 19:1-9. But I think the view taken in Chapter II—that Q is the source of both these passages—leads to a conclusion exactly the same as the one for which Gore, Box, and Selwyn contend, as far as our Lord's historical teaching is concerned. The reasons for this belief will be given below. Moreover, it will be seen below that the results reached in Chapter I above leave the case for the "exception" in our Marriage Canon even worse off than it was in the opinion of Bishop Gore.

100. The case as stated by Bishop Gore during the latter part of his life made it quite clear that Jesus Himself had made no exception at all in his assertion of the indissolubility of marriage, and that none was in any way implied, but rather quite excluded. However, the "exception-clause" was still there in the First Gospel, if not as an authentic saying of Christ, at least as an authentic text of inspired Scripture and as requiring, furthermore, an explanation as to how it came to be there. The explanation which Gore and others were inclined to accept was that the Palestinian Church, or at least some local Church in Palestine or near Palestine, in which originated either the First Gospel, or the First Evangelist, or the oral tradition or written source on which the "exception-clause" is based, had become the victim of a corruption of the true tradition of what our Lord had actually taught, and within this sphere the view had come to prevail that our Lord had taken the same attitude on the point as Shammai. Thus in this sphere remarriage after divorce was allowed, at least to the innocent party, in a divorce on the ground of adultery.

The result was that there was at least one breach in the unanimity of the ante-Nicene Church, and even more important there was the authority of inspired Scripture in favor of the exception. This led Bishop Gore to hold that a particular or national Church, such as the Episcopal Church, was within its rights, after the precedent of the local Palestinian Church, in making such an exception in favor of the remarriage of the innocent party in a divorce for adultery. This would seem a rather slim basis for such a conclusion, since the exception is quite inconsistent with the teaching of Christ. But at least, whatever excuse there was for this easy-going way with His

supremely authoritative teaching, has completely evaporated as a result of the textual results attained in Chapter I of this book, following the eminent authorities there quoted.

101. For we saw there that the correct reading in Mt. 19:9 is exactly the same as in Mt. 5:32. We saw further that, although the "exception-clause" is an authentic part of the text of the First Gospel in both passages, in neither case does it express or imply any right of remarriage on the part of either party, guilty or innocent. Its function in the context we have concluded to have been original was to make the rather obvious exception that, although a man who divorced his wife for the general run of reasons made himself morally responsible for her becoming an adulteress (by remarrying) yet in the exceptional case where he had divorced her for adultery he was free from this responsibility, since she was an adulteress already. Thus not only is all basis for remarriage in this exceptional case lacking in the authentic teaching of the historical Jesus, but it is now seen that the supposed basis in the authentic text of inspired Scripture is also completely lacking.

102. Moreover, the only basis for supposing that some local Palestinian Church in the first Christian century had been guilty of retrogression from our Lord's teaching on this point was the necessity of some theory to explain how the "exception-clause" found its way into the First Gospel. But we have now seen that in its true context the "exception-clause" does not authorize remarriage in any case. So even if we had to explain its presence in the First Gospel as the reflection of some local tradition, that can no longer be alleged as evidence that any local Church allowed remarriage after divorce. But in reality the explanation given in Chapter II is in all probability correct; and, if it is, it is more likely to have operated through an overly precise individual editor than through a tradition. All we really have any right to conclude is that the ultra-precise editor of the First Gospel stumbled at the application of the word "adultery" to the carnal infidelity of a husband with an unmarried woman, to which the strictly technical Jewish usage refused to apply the term, and consequently undertook to "correct" what he saw before him in his source and thought "could not be what Jesus had actually said" into what he thought

"must have been what Jesus had actually said". Then, after having recast the logion in this interest, he found it necessary to put in the "exception-clause" in order to cover the case in which the divorced wife was already an adulteress, so that her husband could not make her one by divorcing her. None of this shows that even the one editor believed in the possibility of remarriage in the excepted case for either party, innocent or guilty; let alone that any local Church allowed this.

103. So the case for the exception allowed by our Marriage Canon collapses completely. It is flatly contrary to the teaching of Christ, the Scriptures, and the solid tradition of the ante-Nicene Church. That being the case, it is not necessary to point out what is very true, nevertheless, that it is still further weakened by the real doubts whether the term in the "exception-clause" after all refers to the post-marital sin of adultery in the true and strict sense of the term. As pointed out earlier in this book (Section 5) Drs. Frank Gavin, E. G. Selwyn, W. K. Lowther-Clarke, and Bayard Hale Jones, following in the footsteps of many famous names in times past, have believed that the term refers to either pre-marital unchastity (undisclosed to the intended spouse, presumably) or else to marriage within the degrees of relationship prohibited in Leviticus. Either one of these cases would be what we call an annulment rather than a true divorce. Nor do I think we have sufficient reason to suppose that they in the first century would have taken a different view of the matter. We cannot be sure whether either of these contentions is correct, and if so which. But neither can we be at all sure that one of them is not correct. And if either one is, the passage becomes *ipso facto* totally irrelevant to the whole question of whether true adultery dissolves a marriage that had ever been really valid.

104. Before closing I must fulfill a promise made earlier in this chapter, and discuss the bearing on our conclusions of the results attained in Chapter II. If the textual results reached in Chapter I are accepted, the matter is completely and decisively settled, and nothing but the details of our above discussion would be affected by the view defended in Chapter II that Q rather than Mark is the direct literary source of Mt. 19:1-12, as it is also of Mark 10:1-12. But how would our contention

in Chapter II affect the final conclusions of one who accepted those contentions, while continuing to reject the textual results achieved in Chapter I? The question, on the premises, could be of considerable importance.

The arguments against the historicity of the "exception-clause" as a genuine saying of Jesus would for the most part remain unaffected. The arguments from the context of "Matthew's" own account would remain quite unaltered. So would the argument that on the side favorable to the exception we have only one single authority, and it a secondary source, which has not *on the whole* gained as high an historical rating as St. Luke's Gospel, let alone the primary sources of Q and St. Mark. On the other side of the scales, we would have to enter St. Mark's Gospel as (in this particular passage) a secondary source rather than a primary source. This would to a considerable extent reduce its weight in that side of the scales; and it would be yet more reduced by the rather inferior showing of St. Mark in his treatment of his Q source at this point as contrasted with "Matthew's" comparatively superior showing in this particular passage.

But on the other hand, this reduction in the total weight of the sources opposed to "Matthew" on the "exception-clause" would be largely made up, and perhaps more than made up, by the increased probability that the primary source, Q, read as we find it reproduced in Mk. and Lk. rather than with the "exception-clause" as we find it in "Matthew". To be sure, the point could still be disputed, even on the premises we are now taking. And we concluded above that it was already probable that Q lacked the "exception-clause", even on the premise that the Markan passage is a primary and independent source. But at least an already probable case has become still stronger, though not yet reaching certainty. This not only increases the *probability* of having to add Q on the same side of the scales with St. Paul, St. Mark, St. Luke, and the entire ante-Nicene Church, but also decreases by the same token the *possibility* of having to add it to the other side of the scales, in which "Matthew" alone can confidently be placed.

Moreover, on the textual premises on which we are now arguing, Mt. 5:32 has to be recognized as being *really* on the

opposite side of the fence from Mt. 19:9 on the really important point of the possibility of remarriage in the excepted case, even if it does give Mt. 19:9 support on the purely verbal issue as to whether or not Christ uttered the actual words "except for unchastity". This would make the weight of sources even more overwhelmingly one-sided against the "exception-clause", if not in any form at all, at least in the only form in which it could be made to give any sanction to remarriage after divorce, in any case whatsoever. Nor could even the most determined adherent of the "exception" in our present canon reasonably overlook the grave difficulty that his whole case would have to rest completely upon the text the reading of which was gravely doubtful, even if he still felt able to accept it as the more probable reading.

105. The sum total outcome is that, whichever alternative view we take, we come to the same result—that Christ taught the absolute indissolubility of marriage, and made no exception in favor of the innocent party in a divorce on grounds of adultery. To retain the "exception" in our Marriage Canon any longer, therefore, while refusing to allow other exceptions, can only be justified by ignorance as to what modern critical study of the Bible has securely established on this point, or else by contempt for the teaching and authority of Jesus Christ.

Chapter VI.

THE PRESENT POPULAR VIEW

106. We have seen above in Chapter IV the reasons which make the doctrine of the indissolubility of marriage the only plausible interpretation of our Lord's words, if those words were substantially as reconstructed in Chapter II, on the basis in turn of the textual results attained in Chapter I. I have also shown at length in Chapter V how completely the case breaks down to-day for one of the two chief competing or rival views on the subject, the view that our Lord taught the indissolubility of marriage as a rule, but with one important exception; viz., in the case of the innocent party in a divorce for adultery. We have seen that this view, for which at one time, on the older view of the Bible, there appeared to be considerable to be said, has now to-day almost nothing left to be said in its behalf, as a result of the progress of modern biblical criticism.

107. We must now turn our most serious attention to a comparatively recent but exceedingly popular view as to our Lord's true meaning. It is so popular, and so widely accepted, that some of its adherents speak as if it were already one of the "assured results of modern criticism." This, I am convinced, it has no claim to be, and never will become in the future. It is, I am confident, one of those fads which further and more careful study will show to have been unfounded. But at present it is the avenue by which most seriously Christian objectors to our main thesis would seek to find it possible to justify a "more liberal" interpretation of our Lord's teaching. It is that our Lord's teaching on this subject need not be taken at its face value. In most if not all other cases it admittedly should not be so taken; and there is no sufficient reason for taking it at its face value in this present case.

108. I think we must agree with Bishop Kirk that the upholders of this view have not thought it out very well. The

result is that they have apparently been unable to come to an agreement as to how to express it. Some say that our Lord taught "principles but not precepts" and go on to argue that while precepts would be rigidly binding in all their strict literalness, principles are fluid, pliant, flexible, and admit of many exceptions. Others say that His teaching was of the "prophetic, not of the legal" type. Still others say that He was setting forth an ideal, but not a standard that is binding on all men in all cases under pain of definite and grievous sin. Still others express the same point by saying that His teaching on this subject was intended as a "counsel, not a precept". Yet others, without intending to contradict the position of those quoted first above, express the same point quite oppositely, and say that the divorce sayings are not "unchanging principles" but "variable rules". Still another assertion is that our Lord's divorce sayings are only picturesque oriental exaggeration, designed to drive home a moral lesson with peculiar force. Finally, there is the contention that our Lord's ascetic requirements or recommendations, including His teaching on divorce, were so closely dependent on His alleged expectation of an early Parousia as to be invalidated by His mistake on that point. His teaching might have been possible, it is argued, for a few years, by means of heroic fortitude and virtue, but is quite impossible as a practical standard for a world lasting thousands of years.

109. I shall relegate the consideration of this final position to Appendix B. I do this partly because of its great importance, and the difficulty of dealing with it adequately in a treatment which cannot digress far enough into the field of Christology to deal *in extenso* with the dogmatic and apologetical problems which it raises. I do it for the added reason, however, that the objection is really an objection to the *validity* of our Lord's teaching on divorce, and is not, like the rest of the positions summarized in the preceding paragraph, an attack on the *interpretation* put on His teaching in Chapter IV. In fact, it rather presupposes the correctness of our interpretation. For on any of the other interpretations we are to consider, His teaching on divorce would not make any serious ascetic requirements on His followers.

110. As to the remaining variant forms assumed by what is in its essence only one main objection, it seems most expedient

to consider what I may call the least common denominator of them all first, and at considerable length; and then to consider every one separately to see if that particular form of argument has any additional or special strength which was not found in the common form of the objection.

All forms of the objection, except one, have this in common—that they all agree in denying that our Lord's divorce teaching is to be taken as "law" or "legislation". I shall begin, therefore, by saying a few words on this point.

III. I think we may quite definitely repudiate the application of the terms "law" or "legislation" to our Lord's teaching concerning divorce, except in one specialized sense of the term to be defined below. It is true that Bishop Gore, and some at least of his allies in defending the position taken in this book, have insisted strongly on the term, and have vigorously defended it. But while I am in complete agreement with the truth which Bishop Gore was seeking to safeguard¹ by insisting that in this case our Lord was legislating, I am convinced that he has weakened his case by using an unfortunate term to express his meaning. The doctrine of the indissolubility of marriage is, I am profoundly convinced, a theological truth; or, in other words, a true proposition in Christian ethics and moral theology. It is, as I hope to show in this book, one which our Lord Himself taught quite unequivocally. But I cannot see that the term "law" is applicable to it, except in the one technical sense explained below.

It sounds too much as if Jesus, by the exercise of His supreme authority as God's Messiah, *made marriage indissoluble*, whereas it had not been so before. In other words, it sounds too much as if the indissolubility of marriage is what moral theologians call a "positive law". By that technical term they mean an enactment which rests for its moral binding force entirely on the will of the legislator who imposes it, and which would have none at all before that legislator had acted, and would cease to have any in case he should ever formally repeal it, or allow it to lapse into desuetude.

In addition to this sense, the word "law" is sometimes used to cover physical laws, such as the law of gravity. But the term

¹ See Appendix A on this point.

in this sense is clearly inapplicable to our Lord's teaching on divorce.

It is also used in a closely related sense to describe the way in which human beings normally act psychologically. But here again the sense is quite inapplicable.

Sometimes it is used in ethics or moral theology to describe what are called "laws of nature" in the moral sense. In this sense it is, I think, applicable to our Lord's teaching on divorce, especially if we accept as valid the arguments from "pure reason" given by the Scholastics and others to prove that all marriages are indissoluble, and not only Christian marriages. But though the term "law" is applicable in this sense, the term "legislation" is hardly applicable at all. For by "natural law" the Scholastics mean something quite different from positive law"—even *Divine* positive law.¹ "Natural laws" in the moral sense express the way the Author of Nature intended nature to be used by free-will creatures. He could not, then, consistently with His own infinitely perfect moral and rational nature, "repeal"² such laws. For God cannot, consistently with His nature, act arbitrarily and capriciously in regard to the "laws of nature" in the moral sense. Of course, that is just one great difference between "natural laws" and "positive laws." But even in the latter case, God cannot—or at least never will—be arbitrary in the sense of irrational.

Our Lord's teaching on divorce may, perhaps, be appropriately called a "law" in the sense last explained—that of a "natural law" or of a requirement of "the law of nature" in the moral sense of the term. But even in that sense, it is of doubtful wisdom to use the term. It seems to me to be a matter of very minor importance whether or not the teaching of Christ concerning divorce is *called* a "law" in any sense at all. But

1 By "Divine positive law" we mean something which is obligatory because God has commanded it, but which He might just as well have failed to command, without inconsistency with His infinitely perfect moral and rational nature. E. g. God was at one time believed by the Jews to have commanded them not to eat rabbits. And we still rightly believe Him, in His Incarnate Nature, to have commanded us to "Do this in remembrance of" Him.

2 Most ethicists hold, however, that He can dispense from them, within limits and for good and sufficient reasons. We do not mean, of course, that His reasons must seem good and sufficient to any particular fallible human mind or minds. We mean only that, if in any case we can be sure that God has dispensed, and what were His reasons for dispensing, it follows inevitably that those reasons must be good and sufficient, even if they seem doubtfully so to some human minds.

it is very important that, if it is so called, it be correctly understood in what sense the term is employed.

In any case, our Lord did not, by His teaching, *make* divorce wrong where it had not been so before. He only made clear, by His teaching, what had all along been God's will in the matter.¹

112. With this preliminary question of terminology out of the way, let us now begin our consideration of the objection in its "least common denominator" form. It is true, as the objection alleges, that in very many cases it is not correct to take our Lord's sayings at their face value. But we deny most emphatically that this fact can in any way whatsoever justify the conclusion that *none* of His sayings should be so taken. I would further maintain that, unless we *can* find decisive reasons for concluding *a priori* that none of His sayings can have been meant to be taken at their face value, we shall have to conclude that one of His sayings on divorce should be so taken. I shall develop these two parts of our answer to the objection separately, and in considerable detail, due to the crucial importance of the issue now before us.

113. First let us summarize our reasons for denying that the fact that very many, perhaps the overwhelming majority, of our Lord's sayings admittedly must not be taken at their face value furnishes any sound basis for the inference that none of His sayings should be so taken. There are several separate arguments all pointing away from this conclusion. I shall enumerate them at once:

114. 1. It is an admitted law of logic that we have no right to draw a universal conclusion without first inspecting all the particulars that come under the universal UNLESS we are dealing with a proposition that can be settled by *a priori* or analytical reasoning, or at least that can be reduced to such a proposition. An example of the first kind would be that all circles in a single plane must have their circumference related

¹ The only possible way in which He could be said to have *made* it wrong, then and there, when it had not been wrong before, would be on the theory that Moses had, by "legislation" authorized or at least permitted by God, suspended the original law of God, in the sense of the "natural law", or that he had dispensed from it, and that Jesus now cancelled Moses' "legislation". But I imagine that few modern scholars will find such a theory attractive.

to their diameter as 3.14159 is to 1, even those which we have not yet examined. But the proposition we are challenging is plainly not of this class.

An example of the second kind would be that a particular chemical substance (e. g. sodium) burns with a glow of a recognizable color. Hence, scientists conclude that there is sodium in the composition of the sun, because they find a glow of that color in the flaming sun. The implied premise is that even the sodium that we have not had a chance to test directly obeys the same physical laws as the sodium we have tested. I am, of course, aware that some epistemologists challenge the safety of this kind of reasoning. Fortunately, it is not necessary for our present purposes to attempt to argue the point with these latter. If they are right, the second kind of universal inference would *ipso facto* be of no value to those who seek to draw concerning our Lord's divorce teaching the universal inference against which we are protesting.

But even if this second kind of universal inference is valid (as I am prepared to maintain at the proper time and place) it can give no support to the attempt to generalize about all of our Lord's sayings having to be taken at something less than their face value. For those who defend this type of inference do so on the ground that we can first conclude from a sufficient number of actually investigated cases that the conduct of the subject of our generalization (e. g., that same sodium) is so consistent that it must be due to its essential nature, and not to any accidental or variable element. From this it could then safely be deduced that wherever the same essential nature is found it will behave similarly, even in cases not yet investigated. Now clearly our Lord's sayings are not of this second class, any more than they were of the first and purely *a priori* class.

115. The only remaining way in which we would be justified in concluding that none of our Lord's sayings must be taken at their face value would be by first determining this to be true in every single case, *taken separately*, and not by concluding that what is true in a majority of cases must necessarily be true in all. Practically all the men we have known are less than 6 feet 8 inches tall. But that does not justify us in distrusting

our eyes when we see one taller. Or again, a particular great scholar is right the overwhelming majority of the time. But that does not justify the conclusion that he can never be wrong.

Thus we cannot draw the inference suggested from the character of the great majority of our Lord's sayings without committing one of two unpardonable sins against the laws of reason. Either we must draw a universal conclusion without inspecting all the particulars subsumed under the universal, or else we must beg the question by assuming the very point we are witnessing an attempt to prove—that this particular saying about divorce must not be taken at its face value. If our opponents had any other and independent proofs of this proposition it would, of course, be entirely competent for them to bring them forward and see if they would survive our cross-examination and criticism. But in so far as the argument is an effort to draw conclusions about the character of this saying from the character of most of His other sayings, it breaks down completely, at least in its strict and absolute form.

116. Can it stand up in a less strict and absolute form? That form would be, not that the divorce sayings *must necessarily* be of the same character as the great majority, but that there is at least a general presumption, of some strength, that it is of the same character as the great majority, unless and until the contrary can be proved with reasonable certainty. I shall give, first of all, reasons to deny that any such general presumption can fairly be made in the present case. Then I shall give reasons for holding that, even if we could rightly agree to start with such a presumption, the evidence is strong enough to cause us to override it in the present case, and conclude that the divorce sayings fall in the same category with the small minority of His other sayings, rather than the large majority.

117. Before we can rightly draw any sound conclusions from the fact that the great majority of our Lord's sayings must not be taken at their face value, we must ask why it is that this is the case. And the answer seems to be not single and simple, but manifold and complex. Let us inspect a few of these:

Some of our Lord's sayings must not be taken at their face value because they are intentionally figurative. Examples of

this kind would be the third kind of eunuchs in Mt. 19:12, and very likely the first kind also.

Still others are merely picturesque or poetical ways of saying very prosaic things, such as the injunction to turn the other cheek, to go with someone two miles, etc.

Yet others are conscious and deliberate hyperbole, for the sake of emphasis, such as the reference to faith moving mountains, to cutting off a hand or foot that leads into sin, etc.

Now it is clear that none of these reasons have any applicability to any one of the three crucial logia about divorce, unless it be the second reason to the "one flesh" *mode of expressing* the doctrine of the indissolubility of marriage. But since our argument that the doctrine of indissolubility is the underlying principle which our Lord has in mind does not depend on the taking literally of the poetical way in which Jesus has expressed Himself on this point, it can have no negative influence whatsoever on our argument.

Other sayings of our Lord should not be taken at their face value because He has in them used the prophetic mode of speech whereby something is condemned or repudiated when all that is really meant is not that it is wrong but only that it is trivial alongside the thing with which it is contrasted. For example our Lord does not really mean that we must literally and actually "hate" all our earthly loved ones in order to be His disciples, but only that our love for them must be so completely subordinate to our love for Him that it will be almost as hate by comparison with our love for Him.

It is equally clear that this type of saying has nothing to do with any of the three divorce sayings. So it can, consequently, have no weight in favor of interpreting any one of them at less than its face value.

118. Still other truths are so complicated, or so difficult to express with complete accuracy or adequacy, even by the professional trained philosopher, that it is no wonder that a teacher of the great unlearned multitudes such as was Our Lord made no effort to do so at all, but contented Himself with giving them either an epigrammatic expression, or one of the forms of ex-

pression already considered above. But the truth that, because marriage is indissoluble, remarriage after divorce from a valid marriage, during the lifetime of the divorced spouse, is exactly the same sin as would be committed if a married man should lie with another woman than his wife (viz., adultery), is (though hard for some men to *believe*) so perfectly easy to *express* that there is no reason to suppose that it would require a poetic or epigrammatic or figurative or hyperbolic mode of expression. Still less would it be reasonable to interpret a saying that can perfectly easily be interpreted as a very serious but perfectly prosaic expression of this truth as being instead a poetic, epigrammatic, figurative, or hyperbolic expression of an entirely different truth which, as will be shown below, the very matter of fact language used so poorly expresses, or rather so completely fails to express, if Jesus meant any of the proposed alternatives scrutinized below.

119. Many of our Lord's sayings must not be taken at their face value because, though they are precepts in form, they were never intended to be precepts in the strict and proper sense (that is, laws) but rather were intended as efforts to express or perhaps better to embody some great ethical principle in the form of a precept. Now anyone who has studied the problem of the application of great general principles to particular concrete cases (what is properly called "casuistry" in the good sense of the latter word) knows how impossible it usually is to lay down any one rule or law or precept which will be true of all cases without exception. Such a rule can usually be framed to cover adequately the great majority of cases, but it will allow of exceptions, and there will be exceptions to the exceptions, etc. This is preeminently true when an effort is made to express a principle in the form of a precept. But it is also true (on this point more will have to be said later) to a considerable extent with the great majority of principles, even when we try to express them in the form of principles.

It is, then, unreasonable to expect to be able to express most principles at all fully and adequately in the form of precepts. Consequently, when our Lord does attempt to do so, it is almost inevitable that He should have to confine Himself to the form of the rule or precept which covers the great majority of cases,

and not attempt to list the exceptions, and exceptions to the exceptions, etc. That He has done this in many cases, is no reason to generalize about any class of cases except the one class in which He attempts to express or embody some principle in the form of precepts. We should, accordingly, not be surprised to find that the cases in which it is most universally agreed that His sayings are not to be taken at their strict and literal face value are, in very large part, those in which He has not attempted to state the principle involved in the form of a principle, but rather in the form of a precept.

120. Moreover, even in such cases we are not at liberty to make or allow exceptions freely or arbitrarily. In order to determine whether any exceptions are allowable, and if so which ones, we must determine, if we can, what is the underlying principle which our Lord is trying to embody in the precept in question. Then, if we can see that a particular exception would in no way be inconsistent with the principle involved, we may and should allow it. And of course this is still more the case if we can see that an exception would not only do no damage to the principle involved, but would rather advance the very principle underlying the precept to which it is an exception. *The nature of the underlying principle, then, is to a very great extent determinative as to whether any exceptions at all are allowable, and if so how many and which ones.*

Let us take as an example the precept "When thou prayest, enter into thy chamber and shut the door etc." (Mt. 6:6) If the underlying principle were that it is a sin to be seen praying, or that it is a sin to set others a good example, we would have to refuse (I think) to allow any exceptions to this precept. But since the principle is rather that we ought not to pray for the sake of getting whatever advantage would accrue from a reputation for great piety, it does not tell either for or against public worship, as long as the being "seen of men" is only *incidental* and not our *purpose* in praying there in the presence of others. Not only the verse with which Mt. 6 opens ("Take heed that ye do not your righteousness before men **TO BE SEEN OF THEM**: else ye have no reward with your Father who is in heaven") but the whole passage (Mt. 6:1-18) and above all our Lord's own example in continuing to participate in public worship regularly

all go to assure us that an exception in favor of public worship should be made to the face value of this precept. And, similarly, we may allow any other exceptions which do not either directly or indirectly amount to praying *for the purpose* (whether or not "with the *result*" is irrelevant) of gaining praise or esteem from men as a result of being seen praying.

I think we may even make some exceptions in cases where the *purpose* is to be seen. I am fairly certain that our Lord would exactly reverse His precept and say, "Do not pray after going to bed, where no one can see you, but kneeling at the side of your bed, where you cannot help being seen" if He were dealing with the very different problem of a youngster off for his first night at a summer camp who cannot make up his mind whether to pray kneeling (with the risk of being thought a "sissy" by the majority who during the day have been heard to make contemptuous references to religion and prayer) as has always been his custom at home, or to say his night prayers reclining after getting in bed, and thus avoid the risk mentioned. But if He would say this it would be an exception only to the precept, and not in the least to the underlying principle embedded in the original precept in Mt. 6:6.

121. Let us now apply these results to the problem of our Lord's teaching on divorce. If we had only the precept "What God has joined together, let not man put asunder" we might have to remain uncertain whether it admitted of exceptions, and if so of which exceptions. The answer would depend on what the underlying principle was. If it was the indissolubility of marriage, as it easily could be even if the precept stood alone, no exceptions would be possible. If, on the other hand, it were that men should not ruthlessly and cruelly put away their comparatively blameless wives, it would allow of an exception wherever the wife was willing to be put away, and also (even when she was unwilling) in any case where she was not comparatively blameless, but had given her husband grave reasons for so doing. Later in the two following chapters, we shall have occasion to discuss still other alternative suggestions given as or implied in alternative interpretations proposed for our Lord's divorce teaching. It is not necessary to attempt to discuss all the possible theories of what the underlying principle

might be—at least not at this point. For fortunately in the present case our Lord did not leave the underlying principle unexpressed, but made it quite clear what it was. It was, of course, His doctrine that by their marriage the couple have been made by God “one flesh.”

122. Even this doctrine, however, is not so unambiguously clear—or at least not so clearly and unambiguously expressed—as to remove completely all possibility of an interpretation that would leave room for some exceptions to the *prima facie* rigidity of the precept. It most naturally means that by marriage a man and his wife have been joined by God in a union which excels all other unions, including even the union of brother and sister or of mother and son. Since those relationships can be treated as broken, but are not really broken—since persons are still brother and sister or mother and son even in those comparatively rare cases where they become so grievously estranged that they refuse to recognize their relationship, or to act upon it—it would seem right to conclude that the same is true, *a fortiori*, of the relationship existing between man and wife, since our Lord taught, on the basis of Holy Scripture, that this union must take precedence of all others. But it would still be possible to remain doubtful on this point, and to insist that we are pressing comparisons illegitimately, if we had only the precept and the “one flesh” doctrine.

123. But we have in addition the utterly crucial logion that remarriage after divorce is adultery, to get rid of which so strenuous an effort is being made today. We have seen in Chapter III how completely unsuccessful this effort is. With this saying added to the other two already discussed, no minimizing interpretation is any longer possible, no interpretation that would make it possible to import any unexpressed exceptions into the precept, or to take our Lord’s “one flesh” doctrine as meaning anything less than the indissolubility of marriage. Our reasons for this conclusion have already been set forth in Chapter IV. Still further reasons will be added to them later in Chapters VII and VIII, including some indirect strength when we examine proposed alternative interpretations of that particular logion and show how completely and decisively they break down, one and all.

124. Now if the underlying principle in our Lord's divorce teaching is the indissolubility of marriage, and if no "lower" interpretation really does full justice to all that He actually said on the subject, then the underlying principle in this particular case completely and decisively excludes any remarriage after divorce as long as the divorced spouse remains alive, though it does not exclude some exceptions to the precept in so far as that has only to do with separation "from bed and board" and does not mistakenly assume that the marriage bond has been ruptured. Thus the very same method of interpretation which in other cases makes many exceptions possible in the present case produces exactly the opposite result, because of the peculiarly inflexible and absolute nature—not of the precept, but—of the underlying principle.

Chapter VII

THE PRESENT POPULAR VIEW (CONTINUED)

125. In some cases, our Lord's principles, even when expressed in the form of principles and not of precepts, still must or at least may be taken at something less than their face value. This is true because even principles cannot always be easily and accurately and adequately expressed in human language, especially when the primary aim of the Teacher is to teach great multitudes of common people effectively. Who, for instance, would undertake to draw up a completely adequate statement of the principle underlying the Fifth Commandment? Or of the principle involved in "judging others"? Or a myriad other such principles? Thus we shall not be surprised if many, even of our Lord's attempts to express principles in the form of principles (i. e. of true propositions in the indicative mood, rather than rules of conduct in the imperative mood or some equivalent of it), admit of exceptions not expressed in the statement itself, and hence cannot be taken at their strict face value.

126. But here again this truth cannot be made to support the thesis that in the matter of divorce we may licitly take our Lord's words as meaning something quite different from what they seem to say and mean. For our argument does not hinge on a strictly literal interpretation of the way our Lord has expressed the principle underlying His precept, any more that it depends on a strictly literal interpretation (a "legal" interpretation, if our opponents please) of that precept. On the contrary, we have already freely and gladly admitted at the end of the preceding chapter in our discussion of principles expressed in the form of precepts that while the doctrine of the indissolubility of marriage is the most probable and natural meaning of the—shall we call it poetic or figurative or "prophetic"—way in which our Lord has expressed the underlying principle, when He said that a man and wife have become by marriage "one

flesh," it is not the only possible interpretation of His words, if we had only the precept and underlying principle.

127. But, as already said above, we are not confined to the precept and the epigrammatically expressed underlying principle. We have in addition an ethico-theological conclusion or inference drawn from them. Or rather—and this is crucially important—drawn *not from the precept and underlying principles precisely as stated*, but certainly from what Jesus *meant by them*. Hence, in order to determine with decisive certainty what He meant by them—in other words, what was the underlying principle, stated in more prosaic words, which He has stated in the highly picturesque words that the married couple have become "one flesh"—we have only to determine what underlying principle is necessary, *as a premise*, to justify the conclusion that "whosoever puts away his wife and marries another commits adultery, and whosoever marries a divorced woman commits adultery." The premise necessary to warrant that inference *must be what Jesus meant*. For while it is not impossible to imagine Jesus drawing an inference that does not follow from a literal interpretation of words He did not mean to be taken literally, it is certainly not possible, by any remotest stretch of the imagination, to imagine Him drawing an inference which does not follow from what He *really did intend* His words to *mean*.

128. Now the only premise that will justify the completely unqualified conclusion that remarriage after divorce is adultery is the doctrine of the indissolubility of marriage; the doctrine, that is, that marriage not only *should not* be dissolved but that it *cannot be*. The inference *simply does not follow* if the principle He was trying to express was only that marriage is so sacred and strong a union that it *ought* not to be dissolved *except for grave reasons*, or even except for one and only one supremely grave reason. It will not even follow from the principle that marriage is so strong and sacred a union that it *never should* be dissolved for any reason whatsoever, however grave; but that, though it *should not* be dissolved, *it can be*. It follows only from the premise that it *cannot be dissolved*, and that all efforts to dissolve it are absolutely null and utterly void. Only on this premise would it follow as a sweeping, unqualified uni-

versal proposition that all marriages are still intact after a divorce has been attempted. And only on this premise—coupled with the premise of monogamy—would it be adultery for a man to take another wife. So this must be—not what our Lord *said*, for He did not say it, at least in so many words, but—what He *meant* by the words He is historically determined to have spoken.

129. I can see only one way in which this conclusion can possibly be evaded. That is to argue that it depends on taking at its full face value the logion that remarriage after divorce is adultery. It does, indeed. But in this case we have the best of reasons for doing so. For one thing, the few close parallels in our Lord's other recorded sayings favor rather than disfavor our doing so; and certainly the logion ought to be judged, so far as the *a priori* probabilities in the case go, not by sayings of a quite different sort, such as principles stated in the form of principles, or principles stated in the form of precepts, or *bona fide* precepts pure and simple, but by statements of the same sort, if any exist (however few); and if not, then by those most closely similar to it in character. This reason, which will be developed more fully below, is our first reason for taking the logion now under discussion at its face value.

The second reason is that the *a priori* probabilities, based on the preceding argument, are in perfect agreement with the two-fold fact that from the very first this logion was (unanimously, as far as our records go) taken at its strict face value, and that no alternative interpretation which I have ever seen seriously proposed by a competent scholar will stand up under cross-examination, while in the case of sayings we all agree should not be taken at their face value, an interpretation more satisfactory than the *prima facie* meaning is invariably available.

130. Let us first develop the argument in the paragraph next but one above. We must begin by collecting the sayings of our Lord which come the nearest to being parallels to the saying, "Whosoever puts away his wife and marries another commits adultery; and whosoever marries a woman who has been put away commits adultery." They are:

a. Whosoever looketh upon a woman to lust after her has committed adultery already with her in his heart. (Mt. 5:28)

b. Whosoever shall deny me before men, him will I also deny before my Father who is in heaven. (Mt. 10:33)

c. Whosoever would save his life shall lose it: and whosoever shall lose his life for my sake shall find it. (Mt. 16:25)

d. Whosoever shall receive one such little child in my name receiveth me: but whoso shall cause one of these little ones that believe on me to stumble, it is profitable for him that a great millstone should be hanged about his neck, etc. (Mt. 18:5-6)

e. To whomsoever much is given, of him shall much be required. (Lk. 12:48)

f. Whosoever shall give to drink unto one of these little ones a cup of cold water only, in the name of a disciple, verily I say unto you he shall in no wise lose his reward. (Mt. 10:42)

g. Whosoever shall do the will of my Father who is in heaven, he is my brother and sister and mother. (Mt. 12:50)

h. Whosoever hath, to him shall (more) be given: and whosoever hath not, from him shall be taken away even that which he thinketh he hath. (Lk. 8:18)

i. Therefore everyone that (equivalent to "whosoever") heareth these words of mine and doeth them shall be likened unto a wise man who built his house upon a rock. (Mt. 7:24)

j. Not everyone that saith unto me, "Lord, Lord" shall enter into the kingdom of heaven, etc. (Mt. 7:21)

k. Everyone that hath left houses, or brethren, etc. for my name's sake, shall receive a hundredfold, and shall inherit eternal life. (Mt. 19:29)

l. He that (equivalent to "whosoever") loveth father or mother more than me is not worthy of me . . . and he that doth not take his cross and follow me is not worthy of me. (Mt. 10:37, 39)

m. He that receiveth you receiveth me and he that receiveth me receiveth him that sent me. (Mt. 10:40)

n. He that sweareth by the altar, sweareth by it and by all things thereon (Mt. 23:20)

o. He that is not against you is for you. (Lk. 9:50)

p. (Foolish is) he that layeth up treasure for himself, and is not rich toward God. (Lk. 12:21)

q. He that is faithful in a very little is faithful also in much, and he that is unrighteous in a very little is also unrighteous in much. (Lk. 16:10)

r. If any man (equivalent to "whosoever") cometh to me, and hateth not his father and mother, etc. and his own life also, he cannot be my disciple. (Lk. 14:26)

s. That servant who (equivalent to "whosoever") knew his lord's will, and made not ready, nor did according to his will, shall be beaten with many stripes: but he that knew not, and did things worthy of stripes, shall be beaten with few stripes. (Lk. 12:47-48)

t. All things therefore whatsoever ye would that men should do unto you, even so do ye also unto them etc. (Mt. 7:12)

These sayings may all be grouped in what I may perhaps be allowed to call a "whosoever" class. As pointed out in some of the texts, such phrases as "he that" or "everyone that" or "if any man" or "that servant who" are all approximately equivalent to "whosoever" which is the term used in a plurality of the sayings of this class. It will be observed, also, that most of these sayings (though not quite all) fall into one or the other of two sub-classes. One of these usually amounts to saying, "Such-and-such action *constitutes* such-and-such a virtue (*or* sin, *or* course of action, defined in terms of which the ethical significance is clearer)." This is true of the sayings listed as a, d, g, i, l, m, n, o, and p. The other sub-class usually amounts to saying, "Such-and-such a course of action will bring such-and-such a reward (*or* penalty)." This sub-class includes the sayings listed as b, c, d (second part), e, f, h, j, k, r, and s.

131. I am very far from wishing to claim that every one of these sayings should be interpreted at its full face value, without allowing room for the possibility of any exceptions not ex-

pressed in the actual words used. But I think that on the whole they strongly favor, rather than at all disfavor, the conclusion that *in sayings of this class* we should more often than not take them at their face value.

Moreover, where any departure from their face value is certainly or even probably correct, it is usually not the "who-soever" or its equivalent which requires the unexpressed qualification, but some other language in the logion. Yet I shall show below that the term "adultery" in the crucial divorce logion does not admit of being taken at anything less than its face value. Therefore, if the logion as a whole is to be taken at anything less than its face value, it must be done by so construing the word "whosoever". Thus the general *a priori* probability, based on a study of this class of sayings of our Lord, is even more strongly averse to any interpretation but the face value of the saying.

Still another point that tells strongly in the same direction is that such a saying is far more likely to require an interpretation at less than its face value if it is positive (explicitly or implicitly) than if it is negative. This is only what we ought to expect. For, as scientific ethicists teach us, "Positive obligations are binding always, but not *for always*. On the other hand, negative obligations are binding not only always, *but for always*." That means, for example, that while we do not have to be telling the truth every minute of the day, because that is a positive duty, we must never at any single minute or second of the day tell a lie, because the obligation not to tell a lie is a negative obligation. This truth also tells against taking the divorce logion at less than its face value. For adultery is a negative obligation, not a positive one; that is, of course, it is something we must *not* do, not something we must do.

132. Moreover, in cases where an exception must be admitted in sayings of these two classes, some clear and cogent reason can always be assigned why the exception must be granted. For instance, in regard to Mt. 5:28, an exception must be made of cases where the "lusting" is entirely involuntary, an act solely of the sex appetite and not of the will. Likewise, in regard to Mt. 10:32, an exception must be understood, since a man might lose his soul on account of some other sin than that of denying

Jesus before men. Again, in regard to Mt. 10:33, an exception must be made of cases in which there is subsequent repentance and forgiveness. Once more, in regard to Mt. 10:40, an exception must be understood of cases in which the ambassadors of Jesus misrepresent Him. Yet again, in regard to Lk. 9:50 we must understand the assertion to be limited to the case in point, or at least to all similar cases. For it is obviously true of only one kind of cases, while of another class of cases exactly the opposite is true. Again, in regard to Lk. 12:47-48, we must understand an exception in the case of invincible ignorance, for no stripes at all will presumably be merited in such a case.

Nor do we deny that for similar cogent reasons exceptions can and must be read into the divorce logion. For example, it will not be adultery to remarry after the divorced wife is dead; nor even before she is dead, if the supposed marriage is found to have been null and void in the sight of God, even though a divorce was necessary for reasons of the civil law. But in all these cases, where it is legitimate to understand unexpressed exceptions, it is because decisive reasons for doing so can be given; and because, moreover, the exceptions do not in the slightest degree militate against the underlying principle. Conversely, in the case of the divorce logion, no convincing reasons can be given for allowing exceptions in the case of any truly valid marriage, while the divorced spouse is still alive. And any such exceptions would be completely *inconsistent* with the underlying principle of the indissolubility of marriage.

133. Thus the general *a priori* probability seems to disfavor rather than favor taking at other than its face value the saying that remarriage after divorce constitutes adultery, if we base our decision as to those probabilities (as we certainly should) on the sayings which most closely resemble the saying on which the interpretation of our Lord's divorce teaching turns. Still more is this the case if we discriminate, within these sayings, those which are most closely of all parallel to that saying, as we have just finished doing.

134. Let us now develop the second reason summarized above in the second paragraph of Sec. 129 for taking the logion in question at its face value. It had two parts. The first of these was that this logion was from the very first, with

complete unanimity for more than three centuries so far as our records enable us to judge, taken in the strictest possible way at its full face value. I do not believe it necessary to repeat here the proofs of this proposition. They have already been presented in brief form in the latter part of Chapter IV, and any extensive vindication of the summary there given lies quite outside the scope of the present work. Nor is it necessary. For such great books as the recent massive treatise on the subject by Fr. Joyce, S. J., and one near the end of the last century by O. D. Watkins, have already done so magnificently, on the whole, though, of course, it is not possible to assent to every detail of their treatment of the evidence. In fact they do not agree among themselves in all details.

135. But the most decisive reason of all for taking the crucial logion at its full face value is that none of the proposed alternative interpretations is able to do justice to the language used by Christ. And if we are to abandon the interpretation which all of His early disciples and His whole Church for more than three centuries unanimously put on His divorce teaching, we must certainly have a better interpretation—that is, an interpretation that is historically and exegetically more probable—to put in its place. Let us, then, examine the most plausible of the proposed alternatives and see how they fare. To avoid any misunderstanding, let us say clearly that we are at this point examining only the alternative interpretations of the saying that remarriage after divorce is adultery. Proposed alternative interpretations of His divorce teaching *as a whole* will be examined later. For all we are trying to do at this stage of our study is to determine whether *this particular logion* should or should not be taken at its face value. Of course our conclusions on this point will have an important bearing when we come to assess the claims of the proposed alternative interpretations of His teaching as a whole.

136. If we are to take the logion in question at less than its face value, there are only two ways in which it can be done. We must do it at the word “whosoever” or else at the words “commits adultery”. Let us consider these possibilities separately.

137. If we take the word “whosoever” as allowing exceptions not expressed or implied in the logion itself, we make our

Lord's divorce teaching as a whole mean, "Marriage is indissoluble, except in certain unspecified cases when it is dissoluble". For the logion we are considering, and on which the interpretation of the rest of the passage essentially depends would in that case mean, "Marriage after divorce is adultery, except in certain unspecified cases when it is not adultery". But it is impossible to imagine our Lord saying or meaning anything so insipid and inane. Moreover, in that case He has simply evaded, or at least avoided, the very question asked of Him, which was, in effect, "When is divorce licit?" Of course it was taken for granted that whenever divorce was licit, remarriage was also licit, since divorce "from bed and board" without the right to remarry was a conception totally unknown to either Jews or gentiles before our Lord spoke on the subject.

But the most important objection of all to the proposed qualification is that it makes the whole saying a matter of legislation rather than of principle. If marriage is indissoluble, the saying is a perfectly logical corollary. But if it is dissoluble (and, despite some desperate theologizing by modern Roman theologians, necessitated by certain actions of the vaunted "living voice" which must at all cost be defended, there is really no middle ground between dissoluble and indissoluble) then the only reason remarriage would be adultery in any cases would be that in those cases divorce had been *forbidden*, not because it is *impossible*. But that, I repeat, reduces the matter to the sphere of legislation¹ rather than of immutable divine principle.

138. The only remaining alternative, then, is to take the term "commits adultery" at something less than its face value. But if it does not mean "commits *literal* adultery," then it can hardly mean anything else but either "commits constructive adultery" or else "commits a sin comparable in gravity to adultery". Now I do not see in what sense the sin involved (and it is clearly implied that *some* grave sin is involved) can be constructive adultery as distinguished from real literal adultery. And besides, even if I have overlooked some plausible meaning, and it does mean only constructive adultery, that implies inescapably that the prior marriage is still undissolved. For the carnal sin of an unmarried person is not adultery at all, even

¹ The legislation might, of course, be either civil or ecclesiastical.

constructive adultery, unless committed *with* a married person, of which there is no question in the universal form of the first clause of the logion under debate. And in the second clause, since no point is made of the man who marries the divorced woman being himself married, it would be adultery only in virtue of the woman being still married. But this would be true only if the divorce she had received were null and void. And that, in a universal proposition, can be true only on the premise that the original marriage was indissoluble. So we come to the conclusion that the phrase "commits adultery" can hardly mean "commits constructive adultery"; but that, even if it could, the logion would still imply the doctrine of the indissolubility of marriage just as much as if it meant "commits literal adultery."

139. The only way out, then, is to try to uphold the contention that the term means "commits a sin comparable in gravity to adultery". But what (other) sin could it mean? I do not dispute the possibility of this meaning on linguistic grounds. For the term can mean fornication, as distinguished from adultery, though this meaning is comparatively rare. But in the present context, I do not see what other sin except actual literal adultery it can possibly mean.

It cannot mean fornication. For we would not have fornication, but lawful marital intercourse, except on the premise that the new pretended "marriage" is invalid due to the impediment of prior undissolved marriage. And on that premise, we would have not fornication but adultery.

It cannot mean the sin of polygamy. For there would be no polygamy involved except on the premise that the divorce was null and void in the sight of God. And that gives us the doctrine of indissolubility, which is the very doctrine our opponents are trying to keep out of the passage, and requires us to take "adultery" in its common strict sense.

It cannot mean the sin of remarriage. For remarriage after the first marriage has been truly dissolved, as by death, would be no sin at all. And if, as a universal proposition, the first marriage has not been truly dissolved, despite the fact that there has been a divorce in the eyes of men, what does that imply

but the doctrine of the indissolubility of marriage? But on that premise, coupled with the premise of monogamy, the term "adultery" must have its usual strict sense.

It cannot mean the sin of desertion, of neglect, of injustice, or of failing in some other or more general way to do one's duty toward one's spouse. For these sins, in cases where they would be sins at all (as they would, of course, except in cases in which they had been justified by misconduct on the part of the divorced spouse sufficiently grave to justify "divorce from bed and board"), would not consist in, nor be in any way exclusively dependent upon, remarriage. Yet it is remarriage alone which is called "adultery" and not the putting away of the first wife, in which all of these sins would chiefly occur, or on which they would be dependent.

The case against this last possibility (or impossibility as we are now justified in calling it) is made doubly and far more than doubly strong by the fact that it is not only the remarriage of the divorcing husband that is called adultery, but equally the remarriage of the divorced wife. This shows that the remarriage of the "innocent party" is as much condemned as the remarriage of the "guilty" party—that is, of the one "suing for" the divorce. But certainly if "adultery" means not real adultery but only desertion, neglect, injustice, etc., it could not be charged against the one put away, but only against the one divorcing.

140. Thus the saying comes back to the doctrine of the indissolubility of marriage, however hard we try to make something else out of it. Of course, as said already above, it is not only allowable but necessary to understand exceptions in the case of a remarriage following the death of one of the original spouses, and also in a case where the original "marriage" was in the eyes of God null and void, and thus no true marriage at all. But these exceptions are exceptions only to the letter of the logion, not at all to its spirit.

In fact, we may fairly say that they are both implied in the logion itself. For, though the tenet of monogamy was apparently axiomatic to our Lord, the idea expressed by St. Paul in Romans 7 must have been equally axiomatic to Him; and this

justifies the conclusion that He would have assumed the first exception as self-evident.

Furthermore, the idea of what we now call diriment impediments, with the resulting invalidity of the pretended marriage, was also familiar to Him, though He presumably did not, on the modern theory of the limited knowledge in His human mind, have the list of impediments very far thought out. But at least the idea would have been axiomatic to Him that marriage within the prohibited degrees would be null and void, for it was to the general run of His contemporaries. Also the idea was axiomatic to St. John the Baptist that marriage with one's brother's wife was null and void; and we have no reason to doubt that Jesus shared this view. Finally, to one to whom monogamy was axiomatic, as to Jesus it clearly was, the conclusion would follow that marriage to a second woman while already married to a first, would be null and void, even if He had believed divorces to "count" up in heaven. So at least three "diriment impediments" would have been axiomatic to our Lord, in all probability. And the contention of this book is that He Himself added a fourth, or perhaps it would be more accurate to say that He extended the third to cover even those cases where a divorce had been attempted. Thus the idea of nullity, as distinguished from divorce, would have been fully familiar to Him.

141. It is worth mentioning at this point, to make repetition unnecessary later, that the meaning we have just fixed for the logion that remarriage after divorce is adultery would stand for it just as much, even if we could find reasons to accept the position of those who deny that this logion is a historical saying of Christ. On anybody's lips it implies indissolubility and monogamy. So, even if (*per impossibile*) the saying is rightly denied by some to proceed from the historical Jesus, at least it proves that both monogamy and indissolubility of marriage were axiomatic to "Matthew", St. Luke, St. Mark, St. Paul, and the author of Q. And this in itself is very cogent proof that the saying is historical. For so novel and so hard a twin-doctrine could hardly have prevailed so early and so widely and so authoritatively except on the authority of Christ Himself.

142. We are thus finally in a position to conclude that it is for no one single reason but for a variety of reasons that the great majority of our Lord's sayings are not to be taken at their strict face value—some for one reason, others for a very different reason, etc. Yet when carefully analyzed none of these reasons seems applicable to the saying that remarriage after divorce is the sin of adultery. And our interpretation of our Lord's teaching on divorce does not depend, as we have already seen, on taking the accompanying precept, nor the poetically expressed underlying principle—His "one flesh" doctrine—at their full face value. It depends rather on discovering what the underlying principle must be, when expressed prosaically, in order to justify the inference which Jesus Himself drew from His preceding remarks. Only this inference must, according to our interpretation, be taken at its face value. We have seen above that there are no sound *a priori* reasons whatsoever for taking that logion at less than its face value, but that what *a priori* presumption there is is in favor of taking it at its full face value. We have also now seen that there are such strong *a posteriori* reasons for taking that particular logion at its face value that they would prevail over fairly strong *a priori* reasons pointing in the opposite direction, if such existed.

143. I think we may now fairly claim to have established that we must take at its face value the logion that remarriage after divorce is adultery, and also that if it is taken at its face value, then the underlying principle must be the doctrine of the indissolubility of marriage. I want now to strengthen this conclusion in two ways. One of these two ways is by showing other things in the context of our Lord's full discourse on the subject which point strongly, if not decisively, in the same direction. The second way is by showing for our Lord's divorce teaching *as a whole* what we have already showed above for the most crucial logion on which the interpretation seems to turn—how completely unsatisfactory are all the suggested alternatives as to what He was trying to say, if He did not mean what we have contended He meant.

144. There are two separate clues *in the context* which point very strongly toward the view that the principle underlying the precept of our Lord and His theological inference,

and expressed in His "one flesh" doctrine, is the indissolubility of marriage. One of these is the fact that instead of interpreting the "unseemly thing" in Deuteronomy as referring to whatever grounds for divorce He recognized to be legitimate, He rejects Deuteronomy on divorce completely and appeals against it to Genesis. Now certainly the words translated "unseemly thing" are vague enough and general enough to admit of almost any interpretation our Lord wanted to put on them, IF He held that any cause or causes whatsoever could sever, or justify a spouse in severing, the marriage bond. This is especially true if we remember that Jesus was no modern historical critic who would be worried by problems of precise critical exegesis, as we see in many passages of His authentic teaching.

Equally certainly, it would have been the natural thing for a first century Jew to interpret the Scriptures in favor of the position he held and *accept* them *so interpreted*, if they easily admitted of such an interpretation, as we have seen that in the present case they easily did. For to *reject* a passage of Scripture, with the views then current as to the inspiration of Scripture, was an extremely radical procedure and one it would have been natural to avoid when it was at all possible. We are logically required, then, to draw the conclusion that Jesus held the one view about divorce with which it was impossible to reconcile the passage in Deuteronomy. That could be only the doctrine of the complete indissolubility of marriage. For the "unseemly thing" can be interpreted to mean "adultery only" (as by Shammai) or "almost if not quite any cause" (as apparently by Hillel) or anything in between these two extremes. The only thing it cannot be made to mean without a dishonest twisting for controversial purposes of which our Lord would have been utterly incapable is that NO CAUSE WHATSOEVER can justify a divorce. That is, then, what our Lord must have meant to cause Him to reject Deuteronomy entirely and appeal against it to Genesis instead of interpreting it as referring to His doctrine as the warring contemporary schools did concerning their respective doctrines.

145. The second fact, taken from the context of our Lord's divorce teaching, is that His disciples jumped to the amazingly radical conclusion that if what He had said was true, it would

be better not to marry at all. The apparent assumption is that if absolutely no divorce is allowable at all, on any grounds whatsoever, one runs too great a danger of getting an "impossible" wife, and being worse off than without any wife at all. The Church ultimately (and apparently very soon) answered this objection by allowing "divorce from bed and board" in such cases—a solution that quite naturally did not occur to the disciples on the spur of the moment, when they first heard so revolutionary a doctrine. For the idea of divorce without the right of remarriage was an unheard-of conception in those days, before Jesus spoke. But what their amazed inference proves is that they had just heard a doctrine far more strict than any they had ever heard before. For it is highly improbable, if not impossible, that they would have been led to so radical a conclusion by a doctrine they must have heard all their lives proclaimed by the school of Shammai, even if they had not themselves been adherents of that school.

146. It is well to emphasize that these two last arguments do not depend on taking our Lord's actual words at their face value, but rather on the *context*, on the general drift of the argument, and on what I think may fairly be called the underlying assumptions of both our Lord Himself and of His disciples. It might be objected that only the first of these two points throws light on the views of our Lord, and that the second shows only how the disciples understood Him. But He could hardly have failed to see that the disciples had misunderstood Him, if He really meant only what our advocates of "liberal" divorce canons think He meant. And if He saw He had been misunderstood, it is reasonably certain that He would have tried, and could certainly have found ways and means, to remove the misunderstanding. So, since the way the disciples understood Him, as shown by the second of our arguments, was the same way we have seen reason to understand Him, on the basis of our first argument, as well as of all the rest of the arguments in Chapters VI, VII, and VIII, and in Chapter IV, we ought as scientific historians to conclude that He taught the doctrine of the indissolubility of marriage, and was rightly understood by His disciples to have meant exactly that, and not one whit less.

Chapter VIII

THE PRESENT POPULAR VIEW (CONCLUDED)

147. The conclusion just reached at the end of Chapter VII is strengthened immeasurably by the fact that all of the alternative interpretations which I have seen proposed by competent scholars are so clearly inadequate to do justice to portions of what our Lord said on the subject, even if we could still remain in doubt that it was the underlying principle of the indissolubility of marriage which is clearly implied in the words He actually uttered. On the other hand, in the case of sayings which all agree should not be taken at their full face value, a meaning more satisfactory than the one rejected can always be assigned.

148. Let us take first the interpretation of our Lord's position maintained by Dr. Frederick C. Grant. He thinks our Lord's words were meant to be no more than a "flaming protest, from the highest vantage point" against current iniquity and injustice, against the current laxity concerning divorce, against the hardness of men's hearts, against their ruthless cruelty in putting away their wives. He thinks the helpless economic position of the first century Palestinian woman was an important factor in leading our Lord to take this attitude.

149. This seems to me a most amazing interpretation, and one that runs contrary to every bit of the evidence. First of all, the greatly improved economic position of the modern woman, who often finds it possible to earn a decent living in the same way as men, as Dr. Grant himself realizes, seems to me to make the argument for the right of remarriage after divorce weaker today than it was in our Lord's day, if there is any material difference at all in the essentials of the two situations. Thus we cannot in any way suppose that what our Lord refused to allow in His day He would countenance in ours, due to changed conditions.

150. More important still, the interpretation itself overlooks vital elements in the passage. Surely, if our Lord's meaning and object had been as Dr. Grant supposes, beyond doubt His condemnation would have been directed exclusively against putting the wife away. Anything that would tend to solve or alleviate the hopeless economic position of the divorced woman would have been a blessing, and the man who solved this problem by taking her as his wife would have been doing an intensely charitable and praiseworthy act. Remarriage for the woman would have been exactly the one thing to be desired, the happiest solution of all. But our Lord unmistakably directs the sharpest point of His attack not at the putting away, but at the subsequent remarriage; and still more clearly does St. Paul. Nor does He confine His condemnation to the remarriage of the presumably cruel and hard-hearted husband. The remarriage of the divorced woman is condemned as exactly the same sin as the remarriage of the divorcing man. And what ought, on Dr. Grant's theory, to be the extremely charitable and praiseworthy act of the man who removes the problem by marrying the economically helpless woman is, instead of being praised, condemned as the dirty, black sin of adultery. If Dr. Grant had tried hard to misunderstand our Lord, it is doubtful whether he could have done so more completely.

151. Pointing in the same direction is the fact that our Lord, as already emphasized in a different connection, *rejects* the provisions of Deuteronomy [which either authorize the remarriage of the divorced woman (as on the translation of the Am. Rev. Version) or at least take it for granted and regulate it (as on Driver's translation)], calls the right to give a "bill of divorcement" a concession to the hardness of men's hearts, and appeals over against Dt. to Genesis, as teaching that in marriage God makes husband and wife "one flesh". The Dt. provision certainly facilitated the remarriage of the divorced woman, and that was in all probability the purpose of the "bill of divorcement", even if the original author of the passage in Dt. only tolerated and regulated the practice, and did not himself command or authorize the giving of the bill of divorcement. This falls into line perfectly with the point argued in the preceding paragraph, and still further confirms that argument. Certainly Dr. Grant's interpretation is untenable!

152. It might possibly be suggested that most of the phenomena on which we have based our interpretation would be satisfied by the theory that our Lord was condemning divorce as an evil, and saying that there is no cause, however grave, which *justifies* divorce or *makes it the right thing to do*; but that He did not mean that if someone wrongly divorced his wife they were still married despite the divorce. In other words, He did not mean that all divorce is *impossible* (the indissolubility of marriage) but only that all divorce is sinful. If this were His meaning, remarriage would not have to be abandoned as a condition of making a worthy Communion. Repentance of the sin of divorce which paved the way for the remarriage would be necessary, but not the termination of the second marriage, or the living together only as brother and sister in extreme cases where there are children to be considered.

153. I hope that in stating this position I have not just set up a straw man to be knocked down. I have not found it in any writer. But it seems to me to be exegetically the least impossible of all alternatives with which I am acquainted to the interpretation defended in this book, and the least implausible, and for that reason I have felt obliged to bring it forward and criticize it, as a matter of elementary honesty. It does at least evade the force of the argument based on the fact that our Lord did not interpret Deuteronomy but rejected it. For there would be no "unseemly thing" which really justified divorce. I think it also, though less clearly, evades the force of the argument based on the amazingly radical conclusion which the disciples drew from our Lord's sayings. For His teaching would, on this interpretation, be even stricter than that of Shammai. So the radical conclusion of the disciples could be understood. For He would have said that all divorce is sin, even if it is not impossible. *Fieri non debuit, factum valet*, to give the famous theological maxim a new application.

154. Yet this proposed alternative interpretation will not stand up under cross-examination. If it evades successfully the force of two of the arguments in favor of the interpretation defended in this book, it fails completely to meet the strongest and most crucial of them all. That is the statement by Christ that, as a universal proposition, remarriage after divorce is

adultery. We have seen reason above to hold that in this saying "whosoever" means "whosoever" (not, "What never? Well, hardly ever!") and "adultery" means "adultery". If these results are sound, the interpretation will not be correct. For on that interpretation, though divorce would always be a sin, and for indirect reasons remarriage might be a sin sometimes, it would not always be a sin at all, and still less would it be the specific sin of adultery. It would be adultery only on the premise that the former marriage was intact, and that monogamy is axiomatic. And since the statement is universal, it would follow that not only some divorces are invalid in the sight of God, but all divorces without exception. The reasons here so briefly stated and implied are argued much more fully above (Sec. 135-139) where we were proving that Jesus meant just what He said when He said that remarriage after divorce is nothing else but adultery.

Assuming their validity, we must conclude that divorce, being disallowed in the Heavenly Forum, is not only wrong but invalid. And the only reason that all divorces would be invalid would be that they are not only sinful but impossible. They try to put asunder what God has joined together. But to do so lies outside human power. So every attempt to do so is only an attempt which cannot succeed, and which is treated up in heaven exactly as if it had never been made, so far as its effect on the former marriage is concerned. But all of this is exactly the point on which the interpretation I am criticising diverged from the one defended in this book. Thus it is impossible. It stands up only at the points in which it agrees with the interpretation we uphold and breaks down exactly at the point where it differs crucially from our interpretation.

155. In completing the consideration of still other proposed alternative interpretations, we shall be able at the same time to begin the consideration of the several special forms which we listed in Sec. 108 as possible variants of the "least-common-denominator" form of the argument which we have so far considered. Of these some do not so much differ from the interpretation we have put upon our Lord's actual words, as maintain that He did not intend His teaching to be obligatory on

all (the "counsel vs. precept" distinction) or for all times and places and circumstances (the "not unchanging principles but variable rules" distinction) or under pain of sin, but only as an ideal (the "only an ideal" contention). Others, like the arguments that He taught "not precepts but principles", or the closely related argument that His teaching was "prophetic, not legal", though they can be and are used in support of alternative interpretations already examined above, are not themselves *alternative* interpretations, since they are not interpretations at all but only methods of justifying unnatural interpretations that have been proposed. But there is one of these variant forms of the generic argument we have been refuting which does amount to a different interpretation. It is that Jesus meant His divorce teaching to be no more than a piece of picturesque oriental exaggeration, designed to drive home a moral lesson with peculiar force. So I shall consider this contention first of all.

156. I think we must agree with Bishop Kirk when he replies to this contention that the difficulty about this interpretation must be obvious to everyone. He says that whereas the alleged examples or parallels are genuinely "picturesque" the divorce sayings are merely prosaic. He thinks (rightly, as it seems to the present writer) that a man must be "wholly devoid of literary sense to suggest that" our Lord's "divorce teaching comes into anything like the same category as these others." He adds, "If *they* (the alleged parallels) are compact of imagination, *its* fibre is wholly trite and matter of fact." And this is true despite the fact that "when our Lord needed a picturesque phrase" in regard to sex "He could use one which, macabre though it is, nevertheless makes a vivid appeal to the imagination." All of this seems to me most just.

Besides, there is the point that, even if it was "picturesque oriental exaggeration" it still must have been meant to mean something. And we have already seen above that all the proposed alternative meanings labor under insuperable difficulties. The one Dr. Kirk represents his opponents on this point as suggesting—"no more than a general injunction to live the sex life with reasonable moderation"—is so ridiculous an interpretation of the divorce logia as a whole, even apart from the details which only increase the difficulty, that it is hard to believe it

requires refutation. Yet since, as Adolf Hitler knew, the more preposterous one makes oneself the more likely one is to find acceptance from some, it may be well to ask a few simple questions. Why, if that is what Jesus meant, should He confine His actual language to the cases in which there had been a divorce? And why aim the main burden of His condemnation at remarriage? There is no more likelihood of immoderation in sex in a second marriage after a divorce than in a second marriage after the death of the wife, against which not a word is said; nor especially in a first marriage, in which, at least in the beginning, immoderation is far more likely. But not a word is said concerning all of this. Also, why reject Deuteronomy and appeal to Genesis? Deuteronomy does not in the least favor immoderation in matters of sex—at least certainly at the point where it deals with divorce. Why, also, were the disciples so amazed? Did they not even believe in moderation in sex matters? And if it be said that they missed the meaning of Christ, then why did He not perceive this and correct the misapprehension? And many other insuperable objections to the proposed interpretation could be raised. On the whole, it would be about as reasonable to take the divorce passage as intended to do no more than condemn idolatry as to contend that all it was intended to do was to inculcate moderation in matters of sex.

157. Let us consider next the contention that our Lord's divorce teaching was never intended as morally binding on all men, in the strict sense, under pain of serious sin, but was given only as an ideal, to be aimed at and approached as closely as possible. This may be granted to have some element of truth in it insofar as concerns the implication that even separation "from bed and board" should be avoided as far as possible. Such separation was not declared by our Lord to be in all cases sinful. Nor has the Church ever excommunicated, without exception, all those who thus separated. St. Paul explicitly contemplates and at least tolerates such cases in I Cor. 7. But as to remarriage, that our Lord did explicitly declare to be adultery, and in a universal proposition, and His Church from the first so understood and so taught. To avoid adultery is not an ideal, but a strictly binding moral obligation, for all, under pain of grave sin. Thus this contention breaks down completely at the very point where it challenges the teaching of the

ante-Nicene Church, and of the Western Church, with a few deplorable exceptions, to this day. Honorably included under the Western Church on this point are most of the Churches of the Anglican Communion, a dishonorable exception being regrettably necessary in the case of the Episcopal Church.

158. Closely similar to the contention immediately preceding is the contention that our Lord intended His divorce teaching as a "counsel, not as a precept" binding on all. In reply, the same distinction used in discussing the preceding objection must be made between "divorce from bed and board" and re-marriage after divorce. The latter is explicitly called adultery by our Lord. And abstention from adultery is no "counsel of perfection" but a strict precept rigidly binding on all men and women whatsoever, under pain of grievous sin.

There is also the additional answer given by Bishop Kirk. He argues that, "unless the distinction is to lead to moral chaos and degradation, the precept must be clearly understood to be a mere precept, or minimum, and not a norm; and the corresponding counsel must be kept before all men's eyes, as something at which all ought to aim, and not just a special category of virtue reserved for a saintly elite." As a result, when we come to state them, it is legitimate to leave the counsel quite vague and indefinite, since there are few limits to the possibilities of moral progress. But at all costs the precept has to be made perfectly definite, and must be clearly understood to be a minimum, which we can flout only at the risk of moral and spiritual calamity. What will happen if this basic rule is not followed in such cases, Dr. Kirk describes and illustrates from the case of Lenten resolutions.

Dr. Kirk agrees with perhaps the majority of untrammelled modern critical scholars in believing that the historical Jesus did not make use of this distinction at all in His teaching, despite the existence of several apparent cases in the First Gospel, which are usually attributed to (as Dr. Kirk expresses it) "the ecclesiastical mind of the First Evangelist, or . . . the practical pastoral experience of some part of the primitive Church." But he goes on to argue, even more securely, that if by any chance this conclusion is wrong, and Jesus did sometimes make use of this distinction, "it is incredible that He should have neglected

what may be called its first rule, and omitted not only to define the precept, the minimum standard, clearly, but even to state it at all." Yet that is just what He must be admitted to have done if He had any such distinction in mind at this point. "The 'counsel'—the maximum—is very definite: 'No divorce in any case'. But what is the 'precept'—the minimum? We are left entirely in the dark on this point." I think we cannot but agree with the implication that our Lord was far too wise a teacher to have made so colossal a pedagogical blunder, even if we do not feel quite secure in supposing, as does Dr. Kirk, that "those who put this interpretation upon our Lord's teaching would have us believe that, as far as the minimum—the precept—was concerned, He was prepared to admit a laxity as great as that of society around. For clearly that was the result to which His teaching would have tended, if the divorce prohibitions were 'counsels of perfection' only, which did not bind everyone, whilst nothing was said about any obligation by which everyone *was* to consider himself bound."

159. Let us consider next the contention that our Lord's divorce teaching was "not immutable principles, but changing rules". Bishop Kirk replies that on examination the distinction, which is at present very popular, and is often resorted to when it is desired to make new ethical departures, cannot be found to apply to the case of our Lord's teaching on divorce; or else, if it is applied at all, fails completely to produce the logical result desired by the objector. "A 'rule' is the application of a 'principle' to a particular set of circumstances, and so long as the circumstances do not alter in any *essential* respect (*italics mine*), the 'rule' must remain as invariable as the 'principle' to which it gives expression."

Dr. Kirk concedes that there are many differences between the modern world and Palestine in the time of Christ. But he denies emphatically that any of them affect the question in any essential respect. The Jews of that date knew all the reasons now producible in favor of divorce and remarriage, "and it is ridiculous to suggest that they operate more intensely now than they did then. The problems of sex are not very greatly affected by changes in social or economic systems, nor by the progress of education and civilization. For sex is a more fundamental prin-

ciple than any of these, and so remains unaltered through all their changes." This again seems to me perfectly sound. It would be more reasonable to argue that novel factors forcing a prolonged delay in the usual age of marriage call for us to take today a less intransigent attitude against fornication than to assign equally plausible differences telling in favor of remarriage after divorce. I think that the far greater possibility of the modern woman earning an honest living in decent and moral ways tells if anything against greater concessiveness to-day than in our Lord's time.

It is true that to-day a wife can divorce her husband, and thus force upon him the hardship of involuntary celibacy. But if this was impossible in Palestine in our Lord's day, it was possible outside Palestine, at least in some regions. And not only would it be unsafe to assume that our Lord was unaware of this fact, and that He would have taken a different attitude toward the problem if He had known it, but St. Paul, who did know it, and St. Mark, did not consider it to make the slightest difference. Moreover if it was impossible for a Palestinian woman to divorce her husband then, it was certainly possible for her to desert her husband, and thus present him with the same problem of either remarriage after divorcing her, or else *involuntary* celibacy. Yet is it possible to suspect for an instant that our Lord would have sanctioned or even tolerated divorce followed by remarriage in such a case? Or still less that He would have condoned adultery in the absence of such remarriage and the outlet for the sex appetite which it afforded? Nor do we think today that there is so great a gulf between the difficulty of prolonged continence in men and women as to make it likely that this one alteration in circumstances could make the necessary difference.

So I think we must agree with Dr. Kirk's conclusion, "It follows therefore, that our Lord's teaching on sex has the same value, authority, and application today as it ever had. We may call the divorce sayings a 'rule' if we will, but if so they are an invariable rule, expressing an invariable principle, because no change of circumstances except a universal and revolutionary modification of the sex instinct can affect their relevance to life."

But the objection is even weaker than Dr. Kirk's discussion would lead us to think. For only one of our Lord's three logia on divorce can be accurately called a "rule". That is the negative command, "That which God hath joined together, let not man put asunder." The "one flesh" teaching is not a "rule" but a doctrine. And the assertion that remarriage after divorce is adultery is a theological corollary, and not in any sense a "rule". So whether the "rule" admits of exceptions depends on two points. It *will admit* of exceptions *unless* it was *either* a "positive law" which was *not* intended to admit of any exceptions *or else* unless it gave expression to an underlying principle or doctrine which by its own nature, and not because of the mere wording of the "rule", excludes all exceptions. We agree that this "rule" was not a "positive law" which was intended to admit of no exceptions. But it was a "rule" based on an underlying principle or doctrine—the indissolubility of marriage—which by its very nature excludes all exceptions except the cases arising from marriages that were *ab initio* null and void, and cases where the first marriage had been dissolved by death. So the contention based on the phrase "variable rules" breaks down completely as applied to our Lord's divorce teaching as a whole.

160. We must deal next with the form of the general argument which is expressed by saying that our Lord's teaching was prophetic in character, rather than legal. In so far as this is just an alternative way of saying the same thing which we stated at the end of Sec. 107 it is not necessary to consider it any further. But since it might be thought by some that this way of stating the argument adds something to the more general form of the argument, we had better examine it at least briefly from that angle.

I cannot see, however, that it really adds anything material. We surely have no sufficient warrant for holding that a prophet, or One who normally taught in the "prophetic style", could not become convinced of the doctrine of the indissolubility of marriage. And certainly if he did, there is no valid reason why he could not proclaim it in uncompromising terms. St. Paul may not unfairly be alleged as a certain example, though, if we accept the usual interpretation of the passage on which the

"Pauline privilege" is based, he interpreted it as applying only, in the strictest and most absolute sense, to Christian marriage. The resemblance of the doctrine of indissolubility to a "law" would certainly not stop such a prophet. This is shown not only by the intransigent attitude of St. John the Baptist toward Herod's marriage within the prohibited degrees, but still more broadly by far by the share taken by the Old Testament prophets, or the prophetic schools, in the formulation of the various Legal Codes in the Old Testament, and especially in the Deuteronomic Code. Furthermore, its resemblance to a "law" is not very close. It consists chiefly in its absolute rather than in its relative character. But its absoluteness, as explained under the immediately preceding objection, and elsewhere above, is not due to its being a "positive law" but to the very essential character of the doctrine or underlying principle itself.

When we generalize about the character of the teaching of the prophets, we must remember that we are imposing our own categories on the evidence (however justifiably, on the whole). We are not speaking in terms of any categories to which the prophets themselves consciously undertook to conform. So the objection would not be decisive even if the divorce logia, all three of them, fell into a category (call it "law" or "legal principle" or whatever you like) from which Jesus has in no way committed Himself to abstain. Still less would it be decisive if the underlying principle, the indissolubility of marriage, for which Jesus did not undertake to find philosophically accurate expression, falls into such a category. But as a matter of fact, we have seen above in Sec. III that the divorce teaching as a whole does not fall into any such category, and may be called a "law", if at all, only in a sense to which the present objection is totally inapplicable. I do not know just how Dr. Grant and others who state their case this way would classify or categorize the saying, "Whosoever looks upon a woman to lust after her has already committed adultery with her in his heart." But however he would name that logion, I would be quite content to have him name the saying that remarriage after divorce is adultery. He could certainly get from that name, if he chose one that was fair and accurate, no support either for the idea that our Lord could not have uttered such a saying, or that it

could not have meant what these two closely similar sayings seem on their face to say *and to mean*.

Besides, even in His divorce teaching our Lord adheres to His usual teaching pattern ("prophetic", as Dr. Grant calls it). He does not attempt to express the underlying principle with philosophical accuracy in so many words. Rather, He as usual embodies it in a precept (in this case a negative precept or prohibition), and expresses the principle itself in true "prophetic" fashion in His "one flesh" doctrine. Then, as on the point of lusting after a woman, He applies the underlying principle to a current practice—in this case, of remarriage after divorce—and judges it to be in very truth the grave sin of adultery. Similarly, in the case of the logion about lusting after a woman without carrying out the lustful wish, He does not express abstractly the doctrine that to will internally to commit a sin is to be guilty of that sin in the sight of God. He rather assumes it, and applies it to the not uncommon practice of lusting after a woman without carrying out the lustful wish, and judges this practice to be also adultery. All of this is perfectly "prophetic", unless it is unprophetic to be strict, and to assert absolute truths, which admit of no human exception.

Thus we come to the conclusion that the objection that our Lord's teaching is "prophetic" rather than "legal" cannot in any way cast doubt on the historicity of our Lord's teaching on divorce, nor can it evacuate it of its natural and obvious meaning.

161. The only remaining form of the argument is the form which says that Christ taught "principles, but not precepts" and draws from that alleged fact the conclusion that therefore all His sayings admit of exceptions not expressed or even implied in the actual words He used.

In reply, I wish first to protest against the way in which this is expressed. The truth seems rather to be that most of the sayings cited as examples under this heading are in the imperative mood, or some equivalent, commanding men to do or to abstain from doing such-and-such things. Therefore they are not principles, but precepts, at least in form. If all that is meant is that they are principles expressed in the form of pre-

cepts, we may accept the amended form of the statement. But then we shall find that the very reason they admit of so many and such easy exceptions is precisely because they are not principles accurately and adequately expressed, with philosophical precision, but expressed only in the convenient, "rule-of-thumb" way of precepts. They admit, as a result, of as many exceptions as the underlying principle will justify in view of the way the precept is expressed. All of this was argued at length above in Sec. 119-124. I cannot repeat that long and detailed argument here. Nor will that, I hope, be necessary. I trust that any reader who does not recall it will reread it at this point. In my judgment it disposes completely of the present form of the more general objection. In fact, if anything, it may perhaps be said to provide additional confirmation of the same conclusion reached in Chapter IV and defended elsewhere in Chapters VI, VII, and VIII.

162. Thus all the proposed alternative interpretations with which I am at present acquainted are found to be exegetically unsatisfactory. On the other hand, the interpretation we have adopted is exegetically invincible, except on the *a priori* plea that the words must not be taken at their face value. And not only has that plea been cross-examined and found wanting, but we have seen clearly that no alternative interpretation that is exegetically satisfactory is available. On the other hand, in the case of sayings which must not be taken at their face value, the alternative interpretation is *exegetically* superior, and not just superior in the sense of being more acceptable to those who find the literal meaning of the saying impossibly rigid. Our job as loyal Christians is to find out what Christ said, and what He meant by it, and then to subordinate our own opinions and predilections to His superior wisdom.

163. In closing I wish to make one further point which I believe to be of very great weight in proving beyond all reasonable doubt that our Lord meant His teaching on divorce to be taken at its face value, as interpreted in this book.

That last point is that apparently from the very first His disciples, with absolute unanimity, so far as our records enable us to judge, interpreted Him strictly at His face value on the subject of remarriage after divorce, while they did not so inter-

pret Him on all other subjects. There was no tendency whatsoever to cease participation in public worship because He had said, "When ye pray, go into your closet and close the door". But from the very first marriage after divorce was absolutely forbidden. There must have been some reason why the disciples took His divorce teaching at its face value, and did not so take all of His other sayings. Possibly He spoke on these subjects more than once and in such a way as to make it even clearer than His surviving words make it what He meant. At any rate, the disciples were clearly not so simple-minded as to be unable to see that in some cases He did not mean His teachings to be taken at their face value. We have no right, then, to discount the tremendously significant fact that in the case of His divorce teaching they thought He did.

And beyond any doubt, it is extremely significant that they did. There was, as already stressed elsewhere in this book, no contemporary source, Jewish or gentile, to which we can trace this novel and utterly revolutionary doctrine, so very unpalatable to "the flesh". If it did not come from Christ's own mind and intention, then it came from a complete misunderstanding of His meaning. And why should they all, unanimously, have so grievously misunderstood Him? Is there any other case in which this happened? I cannot think of a single one. But even if we could find one or two, that would only slightly diminish, it would not materially remove, the strong presumption against them having done so in the present case.

164. Even as a purely historical proposition, then, it seems exceedingly unlikely that all of His disciples should have so seriously and so unanimously misunderstood Him. But for those who believe in the inspiration of the New Testament—as all loyal Episcopalians are under obligation to do—the difficulty is tremendously augmented. Nor is it removed by accepting the modern view of the Bible, and the much less extreme doctrine of biblical inspiration which this view has proved to be necessary. For here it is not a matter of an error having been allowed by God to occur at some point, but to be corrected elsewhere by the preponderant teaching of the rest of the Bible, as has happened in a few cases. Here the error—if it is one—has affected every single writer in the New Testament who deals

with the subject at all, and has in every case hopelessly altered and corrupted the meaning of our Lord, if it be true that He did not intend His divorce teaching to be taken at its face value. Is that hypothesis compatible with any sincere and honest acceptance of the teaching of our Church that the Bible is truly divinely inspired? I cannot think so for a moment.

165. The conclusion is even more impossible for one who believes not only that the New Testament is inspired, but also that the Holy Spirit is, as the New Testament promises, trying to lead the Church into all truth, and that, as a consequence the teaching of the Church is of supernatural and not purely natural authority. Could not the Holy Spirit have inspired even one biblical writer to understand our Lord correctly? But if not, could He not have guided the Church in such a way that she would not have been led astray by the error of the biblical writers? He appears to have done something of the sort with the passage in *Hebrews* which appears to teach that grave post-baptismal sin is unforgivable, and with the "exception-clause" in the divorce teaching after it became the dominant reading of Mt. 19:9, which was, from the purely practical standpoint, the same as if it had been the true and original reading at that point.

166. In short, we have very strong natural grounds to doubt that our Lord's close personal disciples can from the first have unanimously misunderstood Him, and even stronger supernatural grounds, by far, for rejecting *a priori* the possibility of such a calamity. Yet if His closest disciples understood Him as our modern supporters of "liberal" divorce canons interpret Him, how in that case could the grave misunderstanding which we find throughout the ante-Nicene Church have prevailed so widely and early as to mislead the First Evangelist, St. Luke, St. Mark, St. Paul, and the author of Q (probably St. Matthew, the Apostle) to say nothing of St. Peter, the probable source of much of St. Mark's knowledge, and those who were the source of St. Paul's knowledge? In all probability that ought to include St. Peter, and St. James, "the Lord's brother".

I cannot help believing that only some very flagrant wishful thinking can have so impaired the objectivity of great scholars as to lead them to accept so improbable a conclusion.

Chapter IX

DR. GRANT ON OUR LORD'S TEACHING

167. This chapter is to be devoted chiefly to a criticism of some of the contentions of Dr. F. C. Grant in two important articles from his pen on the subject of our Lord's teaching concerning divorce. The first of these articles was published in *The Churchman* for September 1, 1937. It had been produced at the joint request of Bishop Davis of Western New York and the present writer as an answer to an article written by me and submitted to Bishop Davis, and deemed worthy by the latter of a reply by so eminent a scholar as Dr. Grant. It is only fair to Dr. Grant to explain that while his published article speaks at certain points as if it were in reply to my article in *The Living Church* for July 17, 1937, it was in reality written in reply to a much longer article of which my article in *The Living Church* was an abridgement, and that the latter article had been rephrased at certain points in view of certain misunderstandings of my original position by Dr. Grant in the article we are now about to consider.

This rephrasing makes it even harder to see how Dr. Grant could have so completely misunderstood my contentions at certain points, so careful and fair-minded readers may have been amazed at this misunderstanding. I mention this point out of a desire to be fair to Dr. Grant. At the same time, I must in fairness to myself record that I do not see why even my original article should have been misunderstood as maintaining that the "exception-clause" in the First Gospel was not even an authentic part of the text—a position to the refutation of which Dr. Grant devotes almost one-tenth of his space. I repeatedly called it "unhistorical" but never once "unauthentic".

Dr. Grant's second article appeared in *The Anglican Theological Review* for July, 1940. I shall criticize first the article in *The Churchman* and afterwards the second article. I shall

not repeat here certain arguments against portions of Dr. Grant's position which the course of our main argument has made it necessary to deal with elsewhere in this book. My purpose in the present chapter is to be sure that I do not fail to consider any of his major contentions. Let us proceed at once to the criticism of the former article.

168. Dr. Grant, in the process of refuting the contention which I had *not* made—that the “exception-clause” is not even an authentic part of the text of the First Gospel—says, “In other words, the saying of our Lord was interpreted, at an early date, *and precisely by those who understood and applied His words as the new law* (the italics are his) as requiring an exception in the case of those who put away their wives for infidelity.” It is a pleasure to be able to record that Dr. Grant in his later article has come to the conclusion argued for in Chapters I and II of this book—that the “exception-clause” does not, *as read in the original text*, after all make any exceptions whatsoever to the truth that remarriage after divorce is adultery. So the argument quoted above falls to the ground.

169. He then expresses the opinion that the “exception-clause” was “probably found either in the oral tradition or in that form of the written source Q, which came down to the author of the first gospel.” It would be a matter of considerable importance if either of these alternatives were true. I have given reasons above in the first two chapters of this book for rejecting this opinion, and assigning the “exception-clause” to “Matthew” himself, and especially against assigning it to Q. As far as I know, few if any other scholars of note so assign it.

170. Throughout Dr. Grant marshalls argument after argument to prove that our Lord did not intend His teaching on divorce to be taken “as law”. I have already discussed this issue in Sections 110-111 of this book. I do not maintain that He did so intend. I maintain that the saying that remarriage after divorce is adultery could have been intended to be taken at its face value without having been intended “as law”. It is in my opinion not legitimate controversial method to reformulate one's opponent's position in a way which makes it much easier to refute it, and which was not only never employed or accepted by the opponent but which is definitely repudiated by him. All

of these arguments to prove that the divorce teaching was not intended "as law" are quite beside the point.

171. Dr. Grant says that I "appeal to modern biblical criticism only so far as it serves (my) purpose in getting rid of the 'exception-clauses'. (My) view of the teaching of the Lord as a whole is not that of modern biblical research but the contrary. For present-day biblical research no longer views Jesus as a legislator, etc." I emphatically deny that I in any degree whatsoever took, in the article which Dr. Grant had before him when he wrote, the view that Jesus was a "legislator". On the contrary, I explicitly said that the position in regard to the *general* character of our Lord's teaching for which Dr. Grant contends was one of the greatest contributions of modern criticism to the correct understanding of the historical Jesus, and that I agreed with it wholeheartedly. To be sure, I stated the modern theory in the words of Dr. Easton rather than in those of Dr. Grant. But I did this only because I believed Dr. Easton to be a perfectly competent critic, and to be quite abreast of the latest trends in modern criticism. I do not imagine Dr. Grant will care to challenge this belief. I then went on to argue, along the same lines used above in Sec. 119-124, where I discuss the bearing on our problem of the distinction between principles and precepts, that in the case of our Lord's divorce teaching this distinction should be expressed just oppositely, and does not provide any justification for reading into the teaching exceptions which the very terms of that teaching seem to exclude, and still more its underlying principles and assumptions.

Dr. Grant has a perfect right to remain unconvinced by my argument, and to attempt to give reasons why others should do the same. But he has no right to speak as if I had built my case on an uncritical or precritical manner of dealing with the evidence. As many readers of *The Churchman*, being "Liberals", would not see my article, which appeared in *The Living Church*, and hence would not be able to see for themselves how completely I accepted the modern position as my starting point, the result could only be to prejudice his readers against my position by misrepresenting it. Against such controversial tactics, I cannot but protest.

172. Dr. Grant says, "(Jesus) was concerned first and foremost with the *spirit* in which men were to live etc." Of course

I agree that the spirit of our Lord's sayings is what essentially matters. But I have given reasons above in Chapters VI-VIII to believe that in the case of our Lord's assertion that remarriage after divorce is adultery He meant His words to be taken at their face value. If these reasons can be refuted, or if it is possible to cancel them by other and better reasons in support of the contradictory proposition, well and good. Unless that can be done, it is idle to talk as if the spirit of our Lord's teaching, *on this point*, was diametrically opposite to His actual words. There may be times where we have sufficient reasons for reaching such a conclusion, though I do not recall any offhand. But I think we have seen above that we have no such reasons in the present case, and that we have overwhelming reasons to the contrary.

173. I must say here a few additional words about the effort that is sometimes made to use the "spirit" of Jesus, or of His teaching, to justify the rejection of the historicity of one of His otherwise critically unassailable sayings, or else to force upon it an unnatural meaning while admitting its historicity. Of course if we had any other way of ascertaining the "spirit" of Jesus except by generalizing from the totality of His historical teaching, this plea would not be intrinsically illegitimate. But as we have no other way, we have no right to use the appeal to His "spirit" to undermine the historicity of a logion which stands up under all other tests applied to it by a sane and sound criticism. To do so is to beg the question by assuming that the logion under dispute is not a part of the totality from which the generalization must be made.

That totality must, to be sure, be a critically tested totality, and should not include any sayings that are unable to stand up under a reasonable criticism. But all that does stand up under the objective critical test must be made the basis of the generalization. Otherwise the generalization is no true generalization. If we conclude that to be true of *all* men which is only true of all but one, we are guilty of an admitted and perfectly obvious fallacy.

It is not correct procedure to form our concept of the "spirit" of Jesus by considering only the parts of His teaching that appeal strongly to us, and then using this conception of His "spirit" to get rid of the parts of His teaching which are too

big for our inadequate generalizations. To do so is to substitute ourselves for Jesus as the supreme authority. Rather, if we truly accept Him as Lord, we must accept *all* of His teaching which stands up under sound critical tests, and then form our generalizations as to His "spirit" on this really adequate basis. Then, if we find that His spirit is bigger than or different from our spirit, we can either enlarge our spirit to conform to His, or we can look for a different Lord whose spirit conforms to ours, or we can be our own Lord. The one thing we have no right to do is to trim Him down to our stature. That way lies the very essence of rejection and apostasy; nor is it any the less real because it is unrealized.

174. Dr. Grant says, ". . . instead of laying down legal principles as the basis of a new law, (Jesus) was engaged in setting up ideals, new goals and aims for human life, etc." I have no doubt that this truly eloquent and noble passage is fairly descriptive of very much of the teaching of Jesus. But I have discussed at some length in Sec. 157 the reasons which seem to me to make it impossible to view our Lord's teaching on divorce as an ideal, at least so far as concerns the teaching that to remarry after divorce is to commit adultery. If that means what it says—and we saw above irresistible reasons for concluding that it does—then to abstain from remarriage is the only way to abstain from adultery. And in Christian ethics to abstain from adultery is not an ideal but an absolute moral obligation, under pain of grave sin.

175. Dr. Grant also says, "(Jesus') saying about the sacredness of marriage is no more an article in a body of canon law than are his sayings about love of enemies, or about prayer, or (then follows a long list)". I have never for one fraction of a second said or thought that His teaching about divorce was "an article in a body of canon law". I do deny, however, that there are no more reasons to take at its face value the saying that remarriage after divorce is adultery than for so taking some of the other sayings Dr. Grant lists. The reasons have been given in Chapters VI-VIII. If Dr. Grant had spent more of his space trying to answer things I really said, and less trying to tilt at windmills of his own creation, we would know better than we do whether or not he can find an answer to my arguments. As it is, all

we know is that he can answer decisively a position which I never for one moment thought of holding.

However, while His teaching is not "an article in a body of canon law", yet our canon law ought to be consistent with His teaching, and not flagrantly inconsistent, as it is at present, as widely interpreted, and as was to an even greater degree, by far, the series of canons proposed by the old and now happily discharged Commission on Marriage and Divorce, all of which Dr. Grant strongly supported. It is important to emphasize that, at the time when Dr. Grant wrote the article I am now criticizing, Dr. Easton had not yet made the blessed discovery of the argument by which to try to get rid of the one saying of our Lord on this subject which, more than any other saying, makes it impossible to evade the interpretation put on our Lord's teaching by the New Testament and the early Church as a whole, with complete unanimity, so far as our records enable us to judge. When Dr. Easton finally did make this discovery, Dr. Grant of course hastened eagerly to accept it. But we have seen in detail and quite decisively in Chapter III that it is only a mare's nest. The saying—that remarriage after divorce is adultery—is one of the most securely attested and certainly historical sayings in the whole Synoptic tradition.

176. Dr. Grant is aghast and appalled at the terrible situation that would result if we took all of the sayings of Jesus "as law" and framed our legislation accordingly. So am I. Of course no one has seriously suggested such an idea. But Dr. Grant seems to think that if we were consistent, we ought to favor the idea, and he would apparently use its logical results as a *reductio ad absurdum* of our position. It would be more profitable if Dr. Grant would argue on the basis of what we really favor, or else prove instead of dogmatically asserting without proof that our position leads to such logical consequences as to be absurd. We have never claimed that all of our Lord's sayings must be understood as admitting of no interpretation except the strictly literal one, and of no exceptions unless they are expressed in the actual wording of the sayings. Nor do we see that it would be at all logical or consistent to do so. We think that our Lord, like other persons, spoke in a great variety of ways, and it is no more logical or consistent to try to force

all His sayings into one (or even into two or three) molds than it would be so to treat the sayings of anybody else, and especially of any other teacher.

Sometimes it is perfectly legitimate to read into a saying exceptions which are not expressed in the saying itself, as when I say, "Nothing is going to keep me from seeing the All-Star Baseball game this year." At other times, it would be quite illegitimate to read in any exceptions at all, as when I say, "I do not want any other man making love to my wife." Sometimes a man can use figurative or hyperbolic language without surrendering forever the right to speak strictly literal language upon suitable occasions. Or he can use the latter type of language without thereby justifying someone in putting a strictly literal interpretation on other language which he meant figuratively or hyperbolically.

It is simply amazing to meet with the contention that, because we think Jesus meant one of His sayings against divorce to be taken literally, at its full face value, therefore we must, to be consistent, take all of His sayings in the same manner. It is the task of the scientific specialist in exegesis to try to determine which sayings were meant literally, at their full face value, and which figuratively, and which hyperbolically, and which as mere ideals to shoot at without sin in failing to attain, and which as "counsels of perfection" binding on no one under pain of sin, and which as precepts embodying an underlying principle, and which as precepts pure and simple, and which as principles given a more or less epigrammatic expression, and which as principles expressed almost literally, etc. etc. almost *ad infinitum*. There is no more justification for lumping all of Jesus' sayings into one category than for doing this with the sayings of any other man or woman.

177. In this connection, I may say that I am not at all sure that Dr. Grant is correct in thinking, on the basis of the First Gospel, the Epistle of James, and the Didache, that any considerable section of early Christians was inclined to take any great part of the teachings of Jesus in the incorrectly literal way against which Dr. Grant so justly protests. I notice that he discreetly confines himself to the words "*some of his sayings*". But

even if he is right that some local Church or Churches, or some regional or racial sector of primitive Christianity made this mistake, it is certainly not correct to suggest that all did so, or even a majority. Yet when we come to the divorce teaching, they *all* did so, *with complete unanimity*, as far as our extant records enable us to judge. How does Dr. Grant explain this? And how, if he admits the New Testament to be in any serious sense of the word inspired, can he reject an interpretation which they all seem to have held, with the one possible (but, I maintain, not actual) exception of St. Paul, to be considered later? But at least the early Christians made a clear distinction between the divorce teaching, which they all took at its full face value, and the great majority of our Lord's other sayings, which they did not so take, save for a few individuals, or at most a transitory minority, here and there.

178. Of course I agree with Dr. Grant as to the difficulty of embodying the teaching and ideals and spirit of Jesus in any code whatsoever, even a Code of Canon Law. I am not laboring under the misapprehension that when we have completely prohibited all remarriage after divorce, during the lifetime of both parties, we shall have made all marriages full and ideal Christian marriages. But the difficulty, and probably the utter impossibility, of doing so is no good reason why we should frame our codes so as to make them as far as possible from His teaching and ideals and spirit. And we have done just that if we consent to bless what Jesus explicitly said was adultery; or if we even allow our laymen and lay women to practice it, and remain in good standing, or to recover good standing without desisting from that species of adultery. I see no reason for thinking that the further we depart from the letter of Jesus' teaching on divorce, the nearer we approach to His meaning, His ideals, and His spirit. Exactly the opposite seems to me to be the case. For in this case Jesus seems to have spoken quite literally, and not at all figuratively or hyperbolically. The reasons for this conclusion have been given above in Chapters VI-VIII and argued at length.

179. As to Dr. Grant's positive interpretation of the teaching of Jesus on divorce—that is, what He thinks Jesus *did* mean, as distinguished from what He did not mean, to which the greater part of his article is devoted—I have already criticized it above

in Sections 148-151. I have there given reasons which seem to me completely decisive against it being what Jesus really meant. The reader must judge for himself whether those reasons leave the proposed interpretation probable, or even tenable.

180. Dr. Grant expatiates at some length on the different status of the economically independent modern woman as compared with the economically helpless woman of first century Palestine. I wish he had taken the trouble to make it clear just how he believes this fact to improve the case for divorce nowadays. If, as Dr. Grant contends, our Lord was protesting against the masculine side of the evil only, and objected solely to the cruelty of *men* in divorcing their wives and thus leaving them in an economically helpless position, no doubt the improved position of the modern woman would make the evil less serious. But in that case, why condemn the remarriage of the divorced woman, which was the one thing that would solve her problem of economic helplessness? Yet that is exactly what Jesus did, for in every single account of our Lord's teaching, with one possible but improbable exception, it is said that the remarriage of the divorced woman is adultery, quite as much as the remarriage of the divorcing man, who according to Dr. Grant's interpretation is the sole object of our Lord's condemnation. It is possible to dispute the authenticity of these words in Mt. 19:9. But we decided above in Chapter I that they are an authentic part of the text at that point, and Dr. Easton agrees, though Dr. Grant has not made it clear what he thinks on this point. And even if they are not authentic at that point, they still occur three times, once in Mk., once in Lk., and once in Mt. 5:32, so that it could not be supposed that the reason they were omitted in Mt. 19:9 (if they were) was because "Matthew" had any doubt about their historicity. They were also, in all probability, contained in Q, and in the form of the tradition of our Lord's words known to St. Paul.

181. Dr. Grant comes back again to his own phrasing of the issue—a statement we claim contains a false antithesis, and a misstatement of the real issue—and produces an additional proof that "Jesus' sayings are not articles in a system of canon or moral law, applicable to every possible situation at all times." We do not claim that they are articles in a system of canon law. And

we have defined above, in Sec. 111, the only sense in which His divorce teaching can be called moral law. This sense gives no aid or comfort to Dr. Grant's contention. Dr. Grant's additional proof is that, for example, Jesus "had not a word to say regarding polygamy, which was still practiced in His world, and was certainly permitted both by Torah and by oral law. Not that we think he countenanced it; but if His teaching was intended to have the force of legislation, He could scarcely have ignored this fact." And again, a little further on, "If we are to view our Lord's teaching as legislation, . . . then we cannot very well escape the fact that in not one word, so far as the evangelic tradition goes, does he condemn the practice of polygamy. If full and final proof be required that Jesus' teaching was not meant to be legislation for his followers, or for the later Church, we surely find it here."

That sounds as if we had here Dr. Grant's strongest, best, and most decisive argument. Yet I cannot see a particle of weight to it, unless he is still tilting at the windmill of his own creation that his opponents maintain that our Lord's teaching is intended as a detailed Codex of Canon Law. It is true that Bishop Gore maintained that on the particular point of His divorce teaching our Lord did what He very rarely did—legislated; and that a few of Gore's allies accepted this way of expressing their point. I have discussed this matter in an Appendix, to which the reader is asked to refer. But later than Bishop Gore's writings, and before Dr. Grant wrote, Bishop (then Dr.) Kirk had disclaimed this way of stating the case, and the present writer, in the article in reply to which Dr. Grant's article was written, had carefully avoided any such contention. Moreover, even those who speak of our Lord's teaching on divorce as legislation, have never for an instant thought that our Lord's teaching *as a whole* was intended as legislation, and consequently that His divorce teaching was "*an article*" in a "*system*" of canon law or moral law, unless we use the word "law" in a very different sense than that in which Dr. Grant understands it. Thus Dr. Grant has decisively refuted what nobody ever claimed, or thought for one instant.

182. If, however, we understand some such phrase as "binding at its face value" for the term "law" wherever the latter term occurs in Dr. Grant's article, then not a one of his multitudinous

arguments proves one whit against our contention. We may agree that a detailed Codex of Canon Law, in order to be perfect, had best contain an accurate definition of all its crucial terms, and should be as complete as possible; though even then I imagine a specialist in Canon Law could give Dr. Grant the name of more than one body of canons, which *was* intended as a collection of articles in a body of canon law, and yet failed to meet his demands as to what such a body of canon law must contain. In fact, I imagine the Canons of the Protestant Episcopal Church in the United States of America fail miserably to meet that test.

But anyway, it certainly is not necessary for Jesus to have had in His human mind a fully thought out answer to all of the definitions involved, and all the problems raised, in order to come to the conclusion that marriage is, by God's original will and intention, an indissoluble union, and that consequently remarriage after divorce is adultery. Still less would He have had to give detailed expression to all of these definitions and the answers to all of these problems in His teaching, even if He had them thought out in His human mind. On this point, as on many others in His teaching, we think God simply mediated to His human mind, with the help of a passage of inspired Scripture, some great principle or truth, and Jesus Himself gave adequate expression to it, and then left it to His Church, secure in her possession of the tremendous "power of binding and loosing" and guided by the Holy Spirit, to face the problems of working out these definitions and applying the principle to innumerable types of cases. I cannot see that the failure of Jesus to condemn polygamy explicitly, in so many words, has the slightest adverse bearing on such an interpretation of our Lord's divorce teaching as is contended for in this book.

However, I must not let the matter pass without insisting that, if Jesus did not explicitly, in so many words, condemn polygamy, He did condemn it by implication about as clearly as He possibly could. For His divorce teaching implies the illicitness of polygamy at least as clearly as it implies the indissolubility of marriage. I am not unaware that Dr. Bayard Hale Jones has attempted to put a different interpretation upon the statement of Jesus that remarriage after divorce is adultery. But I

hope enough has been said elsewhere in this book to show how untenable is his interpretation. If so, the proposition that a man can have only one wife at a time must have been absolutely axiomatic to Jesus. For otherwise He could never have drawn from the indissolubility of marriage the conclusion that a second marriage, after a divorce, would be adultery. Both monogamy and indissolubility are assumed as absolutely certain premises of the proposition that remarriage after divorce is adultery. If monogamy were not axiomatic, then a second marriage, *even without divorce*, would not be adultery. Still less, then, would remarriage after a divorce be such.

183. Dr. Grant next argues that we must not translate "those whom" but rather "that which" God has joined together, etc. I am not at all sure that this interpretation is right. It seems to me to put more stress on the gender than is legitimate. What gender would one use to say "those whom" when referring to two persons of whom one was a woman and the other a man? The question is not what do the Greek Grammarians say is the normal usage, but how would the author or translator of Q (or of Mk., if he is the real source) have translated "those whom"? He may not have been very adept at all the niceties of Greek syntax.

However, all this is of very little importance. I cannot see how Dr. Grant's own interpretation leads to any different result as far as the essential meaning goes. Even on his translation, men are forbidden to "loose" or to "undo" the "institution of marriage as such" which is "doubtless" (Dr. Grant tells us) the thing to which "that which" refers, rather than to the individuals. Whether it is easier to make "*chorizeto*" mean "loose" or "undo" and "*sunezeuxen*" mean "bound" than to make "*ho*" mean "those whom" I very much doubt. But if so, "man" is forbidden categorically to "loose (*or* undo) the institution of marriage" and the perfectly obvious reference is to divorce. So there is no gain for the holy cause of a "liberal" interpretation of our Lord's divorce teaching in this exegetical *tour de force*.

Besides, it is not this logic at all, but the saying that remarriage after divorce constitutes adultery, which is the Achilles' heel of the "liberal" interpretation of our Lord's divorce teach-

ing. So even if we granted Dr. Grant the translation he wants, and the exegesis; and even if with this help he could make that particular logion mean something less definite, it would still not save his case as a whole. The latter would still come to grief on the saying on which all "liberal" interpretations have so fatally met shipwreck that finally arguments had to be found to dispute its historicity. But we have seen in Chapter III that these arguments break down completely when carefully studied.

184. Even Dr. Grant's own exegesis of "that which etc." forced him to conclude, "Therefore divorce was an evil, for it undermined the sacred institution of marriage." Perhaps even this might seem to support a "rigid" interpretation of the divorce teaching as a whole, so Dr. Grant adds in the next paragraph, "Even this is not a piece of legislation, either in form or in intention. *For* (italics mine) there is no definition of what constitutes valid marriage." This is one of the most amazing pieces of logic I have ever seen. Of course, as I have repeatedly emphasized, I do not contend that our Lord's divorce teaching is legislation. But even if I did, I could not be refuted by this argument. It is a perfectly common practice for a law to use a term without defining it. In that case the courts have to define the term, either from its general meaning in law, or from some special indication that in the present context the term has an unusual meaning. So the absence of a definition is no proof whatsoever that our Lord's divorce teaching is not legislation. Still less is it any proof that the statement that remarriage after divorce is adultery should not be taken as meaning what it says, which is what we really contend. Undoubtedly it would simplify our task if we had a perfect definition of valid marriage. But the fact that we have not got such a definition proves nothing.

185. Dr. Grant then goes on to ask whether a marriage by coercion, fraud, or between minors, or within the prohibited degrees, etc. is a valid marriage in the sight of God. He adds, "Church and state and common sense alike say no; but the rules of nullity were not in existence in first century Palestine, and there is no hint of any exceptions in the saying of our Lord." What this argument implies as to the relation of our Lord to common sense, I leave the reader to judge, after a little thought. But as to the historical premise, I simply dispute it. It is per-

fectly true that their list of grounds for annulment was not as complete or as well thought out as ours. But it is certain that they did have the idea of invalid marriages, at least for marriage within the prohibited degrees. And our Lord's assumption that monogamy was axiomatic implies as clearly as possible that, at least for Him, marriage while a prior marriage was still in force would also be invalid. This is true of a marriage not yet dissolved by divorce, even if our account of His views on divorce is mistaken. So the idea of impediments, which invalidated the marriage contracted in the face of such impediments, was certainly familiar to Him, and He would not have been referring to such invalid marriages when He said, "That which (if it please Dr. Grant better) God hath joined together, let no man loose." Consequently, such "marriages" would have been implied exceptions, even though our Lord made no explicit mention of them.

186. Dr. Grant is shocked beyond expression that our view might lead to the conclusion that a "marriage may be innocent in one church or place or at one time, but sinful in some other church, some other locality, or at some other time." He considers this to be "the *reductio ad absurdum* and very nadir of the whole legalistic conception of Christian marriage." I have no desire to defend the "legalistic" conception of Christian marriage or of anything else. But I am amazed at Dr. Grant's moral theology. Can he name a single great authority in that field who does not admit that while some things are *prohibita quia mala* (prohibited because they are bad) other things are *mala quia prohibita* (bad because they are prohibited)? It follows that points falling in this second class will not be *bad* where they are not prohibited. And by "bad" moral theologians do not mean only "illegal" but also "sinful". In other words, there are at least some "positive laws" (the kind of laws which make some things *mala quia prohibita*) which bind under pain of sin, even if not all "positive laws" do so. So there is no justification for Dr. Grant's final petulant outburst, "The common conscience of mankind revolts against such pettifogging legalism; men will not long listen to any church which thus confounds morality with legality, and reduces the concepts of right and wrong to the level of lawful and unlawful." Surely this language is as strong as the argument is weak.

I think that all parts of the Catholic Church have claimed the power to *create* diriment (i. e., nullifying) impediments, and not just to define those that were intrinsically nullifying. And General Convention, with the approval of the very Commission of which Dr. Grant was a member, and the leading scholar, created a diriment impediment anew in the canon law of the Episcopal Church when they included venereal disease among the grounds for which a marriage can be annulled. For surely a venereal disease is not intrinsically invalidating. Thus a marriage contracted with venereal disease is null and void in the Episcopal Church but not outside her. Is this pettifogging legalism? If so, why did Dr. Grant's Commission promote it? If parts of the Catholic Church have the power to create diriment impediments, then marriages can be valid in one Church and invalid elsewhere or *vice versa*. And since invalid marriage is sinful (unless excused by invincible ignorance) it follows that a particular marriage can be sinful in the Church in which it is forbidden by a diriment impediment and not sinful in a Church which has not created that diriment impediment.

187. Moreover, there is the bearing of invincible ignorance on the problem. Even in cases in which the diriment impediment is not created but only defined to have been all along intrinsically nullifying, the invalid marriage may not be sinful because of invincible ignorance. This also raises the possibility of a marriage being sinful in one Church in which the list of nullifying impediments is clear enough to make invincible ignorance impossible, and not sinful in another Church in which either (a) the list is not sufficiently clear, or (b) the particular Church, being admittedly fallible, has erred in omitting from her list some impediments that ought to be included or *vice versa*. To be sure, Dr. Grant toward the end of his ninth column shows great impatience with the idea of invincible ignorance. But I am willing to cast my lot with that conception, and shall have almost if not quite a consensus of experts in moral theology on my side in doing so.

188. The one point on which Dr. Grant's case seems to me to have the slightest chance of having any substance to it is in the matter of what is nowadays called in theology "the Pauline privilege". IF this meant that the "brother or sister" who was

not "bound in such cases" was at liberty to remarry during the lifetime of the non-Christian spouse (and most modern scholars have so understood the passage, as has the Western tradition for over a thousand years now) then one of three things seems to follow: either (1) indissolubility is a property of Christian marriages only, and not of all marriages whatsoever; or (2) God Himself, speaking through an inspired writer, did on this point "legislate" in the true sense of the word, and authorized an exception which no mere man could have legitimately authorized; or (3) St. Paul made a mistake in allowing this exception to the general rule. The present writer was at one time strongly inclined to accept the first of these positions, but further study has convinced me that the case for it is dangerously weak. This seems to me to force us to choose between the two remaining. If the third is not incompatible with the true doctrine of Scriptural inspiration, it should probably be preferred. If it is incompatible, then St. Paul was inspired by God in making this exception, and the second alternative should be preferred.

189. My own recent studies have raised more serious doubts in my mind than I have ever had before whether St. Paul really meant to imply that remarriage was allowable even in such cases. Exegetically that seems to be very probable. But the evidence for the use of this privilege in the first seven centuries is so extremely scanty; and the privilege would have been of such immense practical utility if understood as it was later; and the doctrine of Scriptural inspiration then current was so incompatible with the supposition that St. Paul was mistaken that I find myself driven very strongly toward the conclusion that the early Church must have interpreted St. Paul as allowing only separation but not remarriage. Nor will it, in my opinion, satisfy the evidence to conclude that *some* in the early Church so interpreted him. For in that case some will have interpreted him as the later Church did in the West, and we shall be at a loss to account for the almost complete absence, for seven full centuries, of any use of this privilege, or even any *clear* mention of it except in Ambrosiaster, whose evidence is subject to discount for good reasons.

Of course, such an interpretation of St. Paul need not be decisive as to what he meant. But it may well be. For it may

rest on primitive traditional practice, including the practice of the Pauline communities themselves. And if St. Paul meant this privilege as it is usually interpreted, it is *a priori* probable that a good many such cases would have arisen, and that they would have been well known to all, and would have served as precedents, and so would have established a traditional practice and interpretation contrary to the one that seems to have prevailed universally for seven centuries. This latter could not, then, in all probability, have completely supplanted the former without something of a struggle, leaving some trace. Yet we find no such trace.

The problem is difficult and complex, and I cannot at present reach any confident conclusion. The one thing of which I do feel able to be confident is that we cannot licitly draw from the "Pauline privilege" (even if interpreted as usual) the inference Dr. Grant would have us draw. He asks, "Could stronger evidence be asked that Jesus' words taken literally, had *not* the force of law, in the Pauline churches?" I have already said that I am not sure just how St. Paul would have reconciled his "privilege" with his statement as to the things which had been said "by the Lord, not by me." But that his solution would *not* have been to interpret our Lord's words as *not* strictly binding on all persons in all cases seems to me clear from the way he applies them to Christians. St. Paul knows perfectly well that not all have the gift of continence. Yet he lays down, without any qualification or exception, a rule of practice which he must have known perfectly well would put a very great strain on the powers of continence of Christians who separated as husband and wife.

If he had interpreted the words of Christ as not strictly binding, certainly he would have shown himself no more intransigent against remarriage than against separation. But that is just exactly what he does not do. He forbids divorce in the sense of separation, but at once goes on to show that this prohibition is not absolute by contemplating cases in which it is disobeyed without any apparent penalty *except* the one which the doctrine of indissolubility forced him to impose—the requirement that there must be no remarriage. But about the latter point there is no qualification whatsoever. Thus, while we shall

take exception, as before, to Dr. Grant's use of the word "law", we entirely deny that there is any case here in favor of the view that St. Paul did not interpret our Lord's teaching about remarriage at its face value. If he had not done so, he would certainly never have laid so heavy a yoke on those who might very well be among the number who lacked the gift of continence.

190. Dr. Easton would, I think, try to help Dr. Grant by saying that St. Paul appeals to a "higher principle"—that "God hath called us to peace". But it seems obvious to me that this "higher principle" cannot be the fundamental reason why St. Paul grants his celebrated "privilege". For if by simply appealing to such a higher principle he could justify so obvious an exception to the words of Christ Himself, it seems clear he could have used exactly the same principle to justify remarriage in the case of a divorce where both of the parties were Christians. Yet this he refuses to do.

191. It has been thought by some interpreters that St. Paul's privilege lay not in giving permission to separate (and remarry?) in case the non-Christian party refused to live in peace, but in giving permission to continue to live together, even though one of the parties was not converted, provided the latter would live peaceably. It is also a possibility that all St. Paul had in mind in the privilege he conceded was the right to *take the initiative* in separating if the unconverted party made life too miserable for the Christian party by refusing to "keep the peace". If this is the meaning we have to understand *chorizeto* in the *causative* sense rather than as requiring that the unconverted party be the one who actually separates. Normally, of course, a Christian spouse would not be allowed to leave a Christian mate, because by so doing the party who was against the separation might be unjustly exposed to grave temptations against continence. But if it is possible to interpret St. Paul as here suggested, he would have meant that in cases where the unconverted party made serious and prolonged trouble, and made it just precisely on the ground of the Christianity of the converted party, the unconverted party had brought upon himself the temptations incident upon separation, and so was himself morally responsible for any sins that might result, and the converted party would not be responsible. The argument, "How knowest thou, O wife, whe-

ther thou shalt save thy husband etc." has usually been taken as meaning "convert him ultimately if thou remainest with him". But it could also refer to saving him from losing his soul by reason of incontinence. The "higher principle" appealed to obviously has more pertinence to the right to separate than to the right of remarriage. Of course it could be argued that separation without the right of remarriage would be an intolerable hardship. But it is not at all certain that St. Paul would have accepted this argument. He certainly did not when both the parties were Christians.

192. It is not necessary for us to follow Dr. Grant as he disparages St. Paul's views on sex (apart, of course, from his supposed permission of remarriage in the case covered by the "Pauline privilege" where he is gratifyingly "liberal") as those of a "celibate who expected the end of the world in his own generation" or as he denies that sublimation is possible for all men (Does this include married men? If so, is Dr. Grant prepared to excuse fornication in the cases in which sublimation is impossible? Or would he authorize masturbation? Or what solution would he accept?) or as he pronounces the sweeping judgment that "celibates, whether apostolic or medieval, have proved themselves lacking in the fundamental biological urge that leads to marriage" (Does this include Jesus, who was a celibate and recommended the same to those that are able, provided it is done for the sake of the Kingdom of Heaven? At any rate, some of us modern celibates know a plenty about that "fundamental biological urge") or as he fulminates against Christian sex ethics getting "full and final formulation by celibates" or as he lists "other needed changes" against which churchmen have protested in the past. These points all have their bearing on the validity of Christian sex ethics, about which Dr. Grant appears to have his doubts. They have no bearing at all on the question, which is a purely historical question, of what the historical Jesus actually taught about divorce. Whether He taught the indissolubility of marriage and whether (if He did) His teaching is proved to have been mistaken by such arguments as those used here by Dr. Grant are two questions, not one. I am dealing with the former question only in this book.

193. But I cannot help protesting indignantly when he asserts, "The logic which now insists that the teaching of our

Lord, or of St. Paul, has the force of law (King Charles' head again!!!) is the same logic that in the early Church refused remarriage—after the death of a wife—and led Hermas and Clement of Alexandria to frown upon any remarriage whatsoever, even after the death of a spouse, *as a falling short of perfection* (italics mine)." This seems to me a monstrous perversion of the evidence. The only logic in the attitude of the early Church toward remarriage after divorce (which is the same attitude to which Dr. Grant persistently refers as holding that it "has the force of law") was that Christ had declared such a course to be adultery, and that adultery was acknowledged to be a grave sin, and that they believed the authority of Christ to be above challenge. On the other points named by Dr. Grant there was in the early Church *no* unanimity, because Christ had *not* ruled authoritatively upon any of them. On the illicitness of remarriage after divorce there *was*, because He *had* ruled authoritatively on that point. That is all the logic there was and is today to the Christian teaching about divorce. Nor was remarriage after divorce viewed as any "falling short of perfection". It was adultery. And that was one of the gravest of sins, no mere "falling short of perfection".

194. Dr. Grant writes, "The insistence that 'you must remain outside the church unless and until you can assent to the truth of her teaching, and are willing to practice it at whatever cost to yourself'; and that the church 'must be logical and consistent at whatever cost'—to whom are we listening, to a priest exercising a real cure of souls, or to some harsh and ancient rigorist of the Donatist persuasion? And the logic which would stop short of the excommunication of those who 'live in sin' only out of consideration for 'invincible ignorance'—we confess the device seems nothing else than a trick of the logician to save himself from final inextricable entanglement in the net of his own impossible theory."

195. First, as to the last point. I had admitted that some persons who reject the teaching of Christ about the sinfulness of remarriage after divorce might be not only sincere, but even "invincibly ignorant", because they had studied the question conscientiously to the best of their ability, and had sincerely

tried to arrive at the truth. But I had expressed the opinion that the Church could not recognize the right of individuals to remain members in good standing while rejecting her teaching on a point where she so clearly and indisputably echoes the definite teaching of Christ, the Bible, and of the whole primitive Church. Their ignorance might be sincere. But it could not be invincible, because it arose from their rejection of the teaching of the Church, and the Church could not recognize that anyone is blameless if he falls into error by rejecting her teaching. Invincible ignorance means, of course, blameless ignorance. Only those outside the Church can be blameless if they err through rejecting her teaching.

196. The question then arose what to do about the case of those who had remarried under the permission given in our present deplorable canon to the innocent party in a divorce for adultery. I expressed the opinion that in such cases, since their error was not due to the rejection of the teaching of the Church, but to the Church herself having erred in making that exception in her canon, these cases might be deemed cases of invincible (i. e. blameless) ignorance, and so that excommunication would not be necessary; nor would it be just to punish them so severely for an unintentional sin of which the American Church herself was really the responsible cause. In saying this, I may have been guilty of undue laxity, and of a failure to carry through to the logical conclusion the principles I had established.

But if so, it was not to save myself "from final and inextricable entanglement in the net of my own impossible theory." It was in an effort to avoid grave injustice to those led into a state of sin by their belief that they could rely upon their Church to forbid what Christ forbade, and to sanction only what He had permitted. Dr. Grant's Commission has persistently refused to end the defect in our present canon which so gravely and cruelly leads people into sin by recommending the excision of the now totally discredited "exception-clause", except in conjunction with other changes which are at least disputable and which, if the main contention of this book is correct, amount to nothing less than deliberate and total apostacy from Christ. I ask the very earnest question, "Is it morally

licit and honest for those 'Liberals' who know the 'exception-clause' to be totally discredited today to continue to hold it as a hostage for other changes which their opponents cannot conscientiously grant them?"

197. As to the rest of Dr. Grant's indignant rhetorical question, the position I take today, and took seven years ago in the article he was criticising, is not that of the rigorists or Donatists, but of the Church which has consistently rejected all such extremes, as well as the opposite extreme—far less admirable, I think—of laxism, into which it seems to me Dr. Grant's position would lead us. It is not overly rigorous to hold that Christ was right in teaching that remarriage after divorce is adultery, that adultery is a grievous sin, and that people who *intend to persist* in a course pronounced by Christ to be adultery *cannot* make *worthy* Communions. So if we do not excommunicate them, we can do them no good. And we may do them the great harm of causing or at least encouraging them to make unworthy Communions. In what sense this can be called an exhibition of mercy or charity I am unable to grasp. If I have been properly instructed, an unworthy Communion is far worse, far more injurious spiritually, than no Communion at all. I seem to remember a passage in the official teaching of our Church which says, "The wicked (and that must include those *intending to continue* to commit adultery) . . . although they (receive) the Sacrament . . . yet in no wise are they partakers of Christ, but rather, *to their condemnation*, do they eat and drink the sign or Sacrament . . ." And this is good New Testament teaching also. I have never been able to persuade myself that it was either merciful, or charitable, or consistent with the office of "a priest exercising a real cure of souls" to encourage my people to make unworthy and sacrilegious Communions, and by so doing to encourage them to think that there was nothing wrong with their gravely sinful courses, and so to fail to amend them. That view of the Sacraments seems to me to be pure and simple black magic. And our job is not to encourage our people to abide in a course pronounced by Christ to be adulterous, but to desist from it. Of course, if we cannot agree with Christ that this course is adulterous, there is an alternative. We do not have to go on calling Him, "Lord, Lord."

198. As to Dr. Grant's four illustrative cases, something is said in Chapter XII. In addition, a few words may be added here. As to the first case, a fine young man who after an unfortunate first marriage married again, in the sight of men, Dr. Grant says, "To say that (the parties to the second marriage) are 'living in sin' is simply disgusting nonsense, whatever theorists and logicians may say in defense of their view." I respectfully submit that the proper Person to whom to address these kind and courteous words is the One who said, "Whosoever puts away his wife and marries another commits adultery." His reproach some of us are quite willing to share.

As to Dr. Grant's second case, if it proves anything it proves that the wife should seek a "divorce from bed and board." Remarriage would also be desirable, IF it is not adultery. If it is, it would not be permissible. One who said, "Heaven and earth shall pass away, but My words shall not pass away" said it is adultery. Some of us consider that decisive.

Dr. Grant's third case is one of what I have called in Chapter XII that residuum of unalleviable hard cases which constitute the price we have to pay in order that the principle of indissolubility may be maintained. I have given in that chapter reasons which seem to me decisive for believing that the harm done, in and through such "hard cases", by upholding the principle of indissolubility is far less than would result from surrendering that principle. I must refer the reader to Chapter XII for a much fuller discussion of this crucial issue. Its bearing on Dr. Grant's third case will be obvious.

As to Dr. Grant's fourth case, exactly the same must be said as was said about his second case. Divorce "from bed and board" is not out of the question, and may be the right solution to the problem. Remarriage after the divorce is out of the question unless Christ was wrong, or unless Dr. Grant can prove that He meant something different from what He seems to have said, and what His Church for several centuries with unanimity, and in large part ever since, understood Him to mean. Dr. Grant has a right to try to prove this, and I have patiently followed all his attempts, as long as they followed historical lines.

But I must repeat here what I said above—it is illegitimate historical method to use arguments which prove only that “if He meant that, He was wrong” to prove that “He did not mean that.” Such arguments seem to me to have no proper place in a purely historical investigation. I would not wish this last statement to be misunderstood, however, as meaning that I think that Dr. Grant has come anywhere near proving that Christ was wrong if He taught and meant what is contended in this book. I insist only that what Jesus meant, and whether He was right, are two questions, not one; and that to confuse the second question with the first is certainly not helpful, and is very likely to warp the historical judgment in an effort to prove that Christ taught—or at least meant—something which the investigator believes to be correct.

199. Dr. Grant complains of falling back upon “some neat set of rules” instead of “dealing with individual cases upon their merits”. The position I advocate leaves plenty of room for dealing with individual cases upon their merits. But we deny that there can be any individual cases in which adultery is a legitimate solution, and we believe that Christ undoubtedly declared remarriage after divorce to be adultery, and we believe that He knew better about such moral and spiritual issues than we do. We do not advocate handling these intimate personal problems by any “purely legal method”. But we insist that what laws we have on the subject ought to be faithful to the teaching of Jesus Christ, and not in open contempt of His authority and in direct contravention of His divine teaching. Nor do we believe that any souls *will ever, or could possibly*, be lost to the Kingdom of God (as distinguished from an unfaithful particular visible Church) by saying clearly and unequivocally, and without qualification or reservation, “Thou shalt not commit adultery; and our Lord and God said that remarriage after divorce *is* adultery.”

200. Passing on now to Dr. Grant's second article in *The Anglican Theological Review* for July, 1940, there is much less that needs to be said. It is gratifying to have Dr. Grant's admission that the “exception-clause” does *not* “warrant the remarriage of ‘the innocent party’”, but that, “It is simply false exegesis to treat the ‘exception-clause’ as our Canon has treated

it hitherto, i. e. since 1868." But I respectfully submit that any member of our Commission on Marriage and Divorce who admits that absolutely true and obvious fact ought to bring in a report—a minority report, if necessary—giving the Church an opportunity to vote, with his or their favorable recommendation, on an amendment eliminating this admitted error and disloyalty to Christ, without having that amendment so organically connected with other and disputed points that this defect cannot be corrected without at the same time making other changes that conscientious followers of Christ cannot accept. That is, in effect, to hold this exception, which all admit to be in error, as a hostage in exchange for disputed points that absolutely cannot be granted them. Of the honesty and morality of such a procedure it is unnecessary for me to express an opinion.

201. The main new point in Dr. Grant's second article is his eager acceptance of Dr. Easton's contention that the saying that remarriage after divorce is adultery is not a genuine, historical saying of Christ, and his further contention, on the basis of this premise, that what we have in the New Testament is an effort to take our Lord's prophetic teaching and make it into rules governing the Church. "What we see in the Gospel records is two stages of this development: (1) the clear, explicit, categorical enunciation of the ideal of marriage, stated by our Lord (the sayings Dr. Easton recognizes as genuine) . . . Along with this, (2) the reformulation of Jesus' teaching as rules governing the Church (the saying, in all its differing forms, that remarriage after divorce is adultery)."

Since Dr. Grant does not even attempt to produce any arguments in favor of this thesis, but confines himself to its dogmatic assertion, I cannot criticize his reasons. I am I think justified in assuming that they are the same reasons which Dr. Easton gives for rejecting the historicity of the logion that remarriage after divorce is adultery. But these reasons have been criticized at length in Chapter III and elsewhere in this book, so there is no need to repeat the arguments here. If the saying *can be* genuine, then, in view of its overwhelmingly strong attestation, both direct and indirect, as developed above, it ought to be accepted as genuine. It is far better attested than the

sayings which Dr. Easton and Dr. Grant accept as historical. Moreover, since rules are usually stated in the form "Do so-and-so" or "Don't do so-and-so" or "So-and-so is forbidden (or required)" it would be far more reasonable for Dr. Grant to see in the logion he rejects the "prophetic principle" and in "That which God hath joined together etc." the "rule". But the saying that remarriage after divorce is adultery, which it is impossible to interpret away, is classed as a rule, though it is phrased as no rule was ever phrased before or since; and the saying that takes the form of a precept is not considered a rule. Can this be because it is easier to evade its real meaning? Finally, we have already seen above in Sec. 157 decisive reasons for rejecting the idea that the divorce teaching of Jesus was intended to be an "ideal", at least in so far as it forbids remarriage after divorce by branding it as adultery. So there is no basis for Dr. Grant's theory except some very urgent wishful thinking.

202. It is a pleasure to be able to close on a different note. In both articles Dr. Grant brings out, with devastating, absolutely damning effect the shameful hypocrisy of our present Canon, at least as usually interpreted. It "bolts and bars the front door, but leaves the rear one wide open." We lay down rigid requirements, and then circumvent them in daily practice. He might have added that we excommunicate the offenders, thus clearly implying that their remarriage is a grave sin, and then authorize our Bishops to restore them to Communion without repentance. This so far exceeds the wildest pretensions ever made by unauthorized preachers for indulgences that the latter become paragons of virtue beside our Canon, thus interpreted. Even God cannot forgive an impenitent sinner, or one who claims to be repentant, but proves the contrary by refusing to abandon the sin in question. But our Bishops can. At least the Canon blasphemously presumes to confer upon them that sacrilegious power. Dr. Grant has done us a real service by denouncing this humiliating Canon. But perhaps a better interpretation of the Canon would remove the difficulty.

203. Dr. Grant is a far greater scholar than one would think from reading his two articles in favor of divorce. I cannot help suspecting that the reason his scholarship looks so weak in these articles is that he is defending a hopelessly untenable case, and

even a truly great scholar cannot look good when doing that. I cannot help hoping also that it is this same disadvantage which accounts for the singularly ill temper repeatedly displayed in his first article. If his arguments had been stronger, he could have relied more on them, and less on denunciation of his opponents. I hope he will excuse me if in this chapter I have inadvertently, in the heat of controversy, been guilty of any of the same offense.

Chapter X

DR. JONES ON DIVORCE

204. I wish in this chapter to criticize the position taken by Dr. Bayard Hale Jones of the Theological School of the University of the South in an article in *The Anglican Theological Review* for January, 1942, on the subject of divorce. I shall first of all summarize Dr. Jones' position, and then give the reasons why I cannot believe it to be sound.

205. Dr. Jones begins by attempting to get rid of the second half of the crucial logion on the meaning of which the interpretation of the rest of our Lord's divorce teaching turns—the saying that remarriage after divorce constitutes adultery. He does not, however, attempt to get rid of it on the same grounds used by Dr. Easton and Dr. Grant and studied above in Chapter III. Nor does he claim, even, to get rid of the whole saying. He rejects the historicity of the second part of the logion only—the saying that “whosoever marries a divorced woman commits adultery”. The first part—the saying “whosoever puts away his wife, and marries another, commits adultery”—he accepts as a genuine saying of the historical Jesus. But, having (as he supposed) gotten rid of the second half of this crucial logion, he finds it possible to maintain that, in the remaining portion of the saying, the portion that he accepts as historical, Jesus was not using the word “adultery” in the “legally exact” sense. It is, rather, Dr. Jones maintains, “sweeping prophetic language”. “What Malachi called ‘treachery’ Jesus stigmatizes by the name of a capital crime—adultery.”

206. Dr. Jones strongly reenforces this argument with the contention that the word “adultery” in the logion “whosoever puts away his wife, and marries another commits adultery” **CANNOT** mean adultery in the strict legal sense **BECAUSE** at the time polygamy was perfectly legal for Jews, and it would have been possible for a man to take a second wife without even bothering to put away his first wife and still be completely

innocent of the sin of adultery in the strict legal sense. He attempts to buttress this last argument with several shreds of evidence from later Church history which seem to him to warrant the conclusion that monogamy is a requirement imposed by the Church herself; and is, consequently, one from which she can dispense when she wishes. He even thinks that in this way the action of the Episcopal Church can be justified when she allows and blesses the remarriage of the innocent party in a divorce for adultery. But the main weight of his argument for the view that polygamy was permissible among the early Christians rests on the contention that it was legal in Judaism at the time our Lord must have spoken this saying, if it is really historical, coupled with some passages in the Pastoral Epistles saying that a bishop or deacon must be "the husband of one wife." Dr. Jones interprets this as referring to two wives at the same time (bigamy) rather than to two wives successively (digamy) and draws from it the inference that since it was necessary to lay down this requirement for the clergy, it could not have been obligatory for the laity; for if it had been, every layman would automatically have been qualified in this respect to become a clergyman.

207. I am far from intending to imply that this is all of Dr. Jones' article which is of value, or worthy of our serious consideration. But it contains the heart and essence of the only portion of it which (if it could be upheld) would seriously undermine the historical conclusions contended for in this book as the intended meaning of the historical Jesus in His teaching on divorce. Hence, it is the only part of his article that it will be necessary to criticize in this chapter.

208. I would begin my criticism of Dr. Jones' position by emphasizing as strongly as I possibly can that the interpretation which he puts on the word "adultery", and on which his entire case essentially hinges, is possible (if at all) only on the premise on which he works, that the second half of the crucial logion is unhistorical. He bases this premise, as already mentioned above, not on the arguments used by Dr. Easton and accepted by Dr. Grant, and criticized at length above in Chapter III, but on the completely different and independent ground that Mk. 10:12 is unhistorical (as I have already admitted above in

Chapter II) coupled with his apparent belief that all our other passages which contain the second cause of the crucial logion are literarily dependent on Mk. 10:12, and that consequently the historicity of all of these is undermined by the judgment we have been forced to pass on their Markan source.

209. I have no reason to doubt that Dr. Jones would agree with me that, if the second clause of the crucial logion is historical despite his opinion to the contrary, then it at once becomes impossible to interpret the word "adultery" as meaning "treachery" as Dr. Jones wants to do; or indeed as meaning anything else except what Dr. Jones calls the "legally exact" sense. This point has already been argued at length in Chapter VII (Section 138-141) and it is not possible to repeat those arguments here, in detail. The reason, in a nutshell, why Dr. Jones' interpretation is impossible if the second clause is historical is that in that case the remarriage of the divorced woman is stigmatized as being exactly the same sin or crime as the remarriage of the divorcing man. On Dr. Jones' interpretation that would be absolutely impossible. His whole interpretation must collapse, then, unless he is successful in getting rid of the second clause of the crucial logion.

210. And surely he is completely *unsuccessful*! For the argument summarized in the next paragraph above but one is built on quicksand. Even if all our other passages attesting the second clause of the crucial logion were (as he seems to think) directly dependent, literarily, on Mk. 10:12, it would still be quite possible that one or more of the authors of these passages had had access to additional sources (it would not matter whether they were oral or written) capable of providing accurate information on the subject. And the fact that Lk. and Mt. agree almost word for word in their version of the clause, without either one being literarily dependent directly on the other, would suffice to give a very strong probability to what was, to begin with, only quite possible. This conclusion would be still further strengthened by the fact that St. Paul apparently knew, and based his own teaching on, a "saying of the Lord" which forbade the remarriage of divorced women just as rigidly as it forbade the remarriage of divorcing men.

211. But in reality there is not the slightest reason to think that Mt. 5:32 or Lk. 16:18 is dependent on Mk. 10:12. In all probability they are both directly dependent on Q at that point. But other possibilities, in addition to the bare possibility of direct dependence on Mk. 10:12, which Dr. Jones seems to treat as self-evident, are that Mt. is dependent on Q and Lk. on L; or that Lk. is dependent on Q and Mt. on M; or that Mt. is dependent on M and Lk. on L and neither one on Q; or that one or both of these is dependent on oral tradition while the other is dependent on one of the sources named above. And in none of these cases would there be that total dependence on Mk. 10:12 without which Dr. Jones' argument is completely undermined.

Finally, if our conclusions reached in Chapter II are correct, not even Mt. 19:9 is dependent on Mk. 10:12, but rather both of these passages are directly dependent on Q; and the latter did not read as does Mk. 10:12, but as does Mt. 19:9 (assuming the correctness of the textual results attained in Chapter I) and as do Lk. 16:18 and Mt. 5:32. All three of these passages agree substantially as to the wording of the second clause of the crucial logion, which is the only one with which we are concerned at this stage of our argument. This result weakens even further an already hopelessly weak case. We have no trouble seeing how, under Roman influence, Mk. 10:12 took its present shape. But the twist those influences have given it can have no bearing at all on the historicity of other secondary sources such as Mt. 5:32, Mt. 19:9, and Lk. 16:18 which have escaped such a fate, and which are in no way dependent on Mk. 10:12. Still less could that twist undermine the historical weight of such primary sources as Q or L or M or St. Paul, whichever of these have provided our secondary sources with the passage in the form in which they have handed it down to us.

212. So I think we must come to the unhesitating conclusion that Dr. Jones has literally no case at all for challenging the historicity of the second clause of the crucial logion on grounds not equally applicable to the first clause. And not only has he not given any slightest sign of adhesion to the arguments with which Dr. Easton and Dr. Grant attempt to assail the first

clause also, but even if he had we have already seen sufficient reasons in Chapter III above to conclude that those arguments are completely invalid, unless he can strengthen them, which no one has recently even tried to do. So our conclusion must be that the whole logion is beyond any reasonable doubt, on grounds at present known to us, a genuine historical utterance of our Lord and Saviour Jesus Christ. Thus Dr. Jones' interpretation is already rendered impossible.

213. I shall now go on to develop other arguments which make his whole case even more hopeless. This will bring us to the attempt to find evidence in the Pastoral Epistles that polygamy was not forbidden to the laity, in early Christianity, even as late as the date at which those hotly disputed epistles were written.

It is to me nothing short of amazing that Dr. Jones should prefer to interpret "the husband of one wife" as referring to bigamy rather than to digamy. It is true, of course, that the words, taken in themselves, would admit of either interpretation. It is also true that monogamy was not absolutely universal among the Jews or at least that polygamy was not illegal, according to the Jewish law. But this gives us no reason to interpret the words as referring to bigamy. It only leaves open the antecedent possibility that they might so refer. And against that possibility we must set the following points:

214. 1. The early Church is full of strife about digamy, while we do not, as far as I know, have a single adequately attested case of polygamy in all the annals of the early Church, unless this is one. And it would be quite illicit, under the circumstances, to beg the question by interpreting this as such a case, unless there were strong reasons to hold that it must refer to bigamy, or else that it must not refer to digamy. There are no reasons of any real weight to hold either of these propositions. As far as I can remember, there is not a single case of any early Christian writer so much as claiming, or even suggesting, that it might be possible, even in theory, for a Christian to have more than one wife simultaneously. This, of course, is an argument from silence. But where the amount of literature that is silent is so great, and where the argument from silence is supplemented by other and more positive argu-

ments, and where there is no reason to suspect, even, that the practice actually existed despite its lack of attestation, the total argument is decisive. Thus any passage which admits of being interpreted as referring to either digamy or bigamy ought to be interpreted of digamy.

215. 2. The Pastorals contain the requirement that a widow must (have been) the "wife of one husband". Now if we insist on interpreting "the husband of one wife" as referring to "one wife at a time" we ought logically to interpret "the wife of one husband" as referring to "one husband at a time". The implication would then follow that polyandry was as permissible for Christian laywomen as polygamy was for Christian laymen. Yet I am not aware of any good scholar who believes that polyandry was permissible for Jewish women in the time of Christ. And if it was not legal for Jewish women, it certainly would not have been permissible for Christian women. Even if we could find evidence to prove that it was widely allowed and practiced among Gentiles, that would not create the slightest likelihood that the early Christians would have followed the Gentile view on this point. I would consider it a waste of time to summarize the completely overwhelming arguments that could be presented against this possibility, unless someone of scholarly rank had been so bold as to express the opinion that such was the case; and I am not aware of any such scholar. Thus the obviously close parallelism between this passage (I Tim. 5:9) and the two other passages on which Dr. Jones relies (I Tim. 3:2 and 3:12) makes Dr. Jones' interpretation still more improbable.

216. 3. The logion, "Whosoever puts away his wife and marries another commits adultery, and whosoever marries a divorced woman commits adultery" is found in one form or another in all three of the Synoptic Gospels, in St. Paul, almost certainly in Q, and quite possibly in L or M, if there were any such written sources. I have shown above in Chapter VII (Sections 138-141) that if the whole logion is considered, and not just the first clause, the term "adultery" must bear what Dr. Jones calls "the legally exact sense". And Dr. Jones himself seems to admit—what no thoughtful person could well deny—that if the term "adultery" bears "the legally exact sense" then

not only the indissolubility of marriage but also the illicitness of polygamy is clearly and inescapably implied or involved. Now I have argued at length above, in Chapter III and also in the present chapter, that the whole of the crucial logion in question is indisputably a genuine historical utterance of Jesus Christ. I believe the proofs there given to be decisive. But even if one could still (with Dr. Easton and Dr. Grant) doubt the historicity of the whole logion, or (with Dr. Jones) doubt the historicity of its second clause, it would still be necessary to admit that the whole logion, in the form inescapably implying both indissolubility and monogamy, is at least an authentic part of the text of the three Synoptic Gospels, of their source or sources (almost certainly including Q) and was known to St. Paul. Thus to the authors of all these weighty sources it was already completely axiomatic that monogamy was utterly obligatory for all Christians.

217. Now some scholars still believe the Pastorals to be genuinely Pauline, and to have been written (most probably) somewhere around 60-65 A. D. But the great majority of scholars (except conservatives) believe them to be pseudonymous, and to date from c. 75-90 A. D. (with which view the present writer strongly agrees) or else from a still later date (c. 120 A. D.) If we take the latter date as correct, all five of the authorities named at the end of the preceding paragraph are earlier than the Pastorals. If we take the date I prefer, at least St. Paul, Q, and St. Mark are earlier than the Pastorals, and the First and Third Gospels are approximately contemporary with them. Thus the doctrine of polygamy, which Dr. Jones would find attested as still permissible in the Pastorals, in a highly ambiguous passage, is condemned unambiguously, by the clearest implication, in at least five passages or rather sources which are either contemporary with, or earlier than, the ambiguous passages on which Dr. Jones' whole case depends. Nor are these five sources confined to one or two geographical sections of the early Church. So it would be legitimate to interpret the ambiguous passages in the Pastorals as clashing with so much strong evidence only if no other interpretation was reasonably possible. In reality the interpretation Dr. Jones prefers is not only no more probable, on the intrinsic force of

the words actually used, than the digamist interpretation, but (for the reason given as number 2 just above) far less probable.

218. What would be the effect on this argument if we had later to revert to what is at present very much a minority opinion—that the Pastoral Epistles are genuinely Pauline in their entirety? On the whole, that conclusion would strengthen rather than weaken our present argument. To be sure it would make the ambiguous passages proceed from a date probably a little earlier than St. Mark's Gospel, and considerably earlier than the First Gospel or St. Luke's Gospel. This is almost certain. But I Corinthians and Q would still be earlier than the passages in the Pastorals. So the argument based on the dates given just above, while somewhat weakened, would remain substantially intact, and would still be quite strong. We would have five sources, two earlier than the Pastorals, one almost contemporary with them, and two later, and all five would attest the fact that monogamy was absolutely axiomatic to the five writers concerned. On the other hand, to set over against this slight weakening of the argument from the dates of the sources which so clearly condemn polygamy by implication, there would be the fact that in order to interpret the two ambiguous passages as referring to bigamy and by implication allowing bigamy to those not seeking clerical office it would be necessary to set St. Paul at contradiction with his own earlier writings. For in I Corinthians 7 he shows clearly that monogamy was absolutely axiomatic to him, and unconditionally obligatory, and that he based this position on what he believed to be a saying of our Lord Himself. It would be even harder to justify an interpretation of an ambiguous passage in the Pastorals which would make the author contradict his own unambiguous earlier teaching, especially when allegedly based on the authority of Christ Himself, than it would be to make one later writer contradict five different writers who were all earlier than or contemporary with himself. This last point would more than counterbalance the reduced weight of the argument from the relative dates of the sources.

219. As to the alleged evidence from later Church history in favor of polygamy, Dr. Jones asserts that even the Popes have at times given dispensations to commit bigamy. He draws from

this, along with his other arguments, the inference that the Church all along had it in the back of her mind that monogamy was of ecclesiastical rather than Divine institution.

220. Unfortunately, Dr. Jones does not give us the evidence for his assertion that the Popes have more than once given permission or license to commit bigamy. I do not know of any such evidence, and I do know that Roman Catholic scholars of note deny that any such cases can be authenticated. Dr. Jones may have some real cases, but I cannot attempt to judge whether they are authentic unless and until they are specified so that they can be studied. At present I am very much inclined to doubt, *a priori*, whether any such authentic cases really exist.

221. But if such cases do exist, they would not in the least prove that the Popes who gave such dispensations believed monogamy to be of ecclesiastical rather than Divine institution. If they exist at all, they must surely come from far too late a date to have any bearing on the beliefs of the early Church about this point. Moreover, it is a well-known fact that for many centuries now, going back well into the period of the great Scholastics, there has been in the medieval and modern Roman Communion a maximizing school of theologians, with regard to Papal power, which has claimed for the Popes, precisely because they held them to be the "Vicars of Christ" in a very special and exalted sense, the power to dispense, in suitable cases and for grave reasons of which it might be assumed that God would approve, from points that were admittedly of Divine institution. The alleged power to dispense from the impediment of the degrees of consanguinity or affinity prohibited in Leviticus would suffice as an illustration of this claim. It was on this alleged power that the famous case concerning Henry VIII's marriage to Catherine of Aragon turned. If the Popes lacked this tremendous power, only lately claimed and only a few times hitherto exercised, the marriage was null and void, and Henry was entitled to his annulment. I think it is fair to name as another example of this extreme power the modern practice of dissolving "*in favorem fidei*" the marriages of two unbaptized persons in some cases which the so-called Pauline Privilege cannot possibly be made to cover. So only if the decree or license clearly assigned the ground that monogamy was

of ecclesiastical institution would such cases support Dr. Jones' interpretation, even if they could be authenticated beyond dispute. And even so they would not prove that the Church "had always had this theory in the back of her mind."

222. Dr. Jones is, to be sure, able to cite a case in which Luther gave a dispensation to Philip of Hesse to commit bigamy. But Luther's weight as a *Catholic* authority, especially at the time he did this, is not of the highest, to put it somewhat mildly. I have no doubt that some good Scholastics (and possibly also some of the earlier Fathers) could be cited in support of the proposition that monogamy is of something other than strict Divine institution—though I do not mean to imply that I can remember any such cases. But if they can, this is not to be explained as due to the Church always having in the back of her mind the fact that monogamy was of ecclesiastical rather than Divine origin. It would be due to the fact that theorizers have always had great difficulty (until the modern view of the Bible supplied us with the solution to the problem) with the fact that polygamy clearly was practiced among the Patriarchs, even the greatest and most approved; and that it was at least unrebuked, and apparently by implication tacitly approved. Anyone acquainted with the great amount of trouble to which this problem put (and sometimes still puts) the Scholastics in their discussion of the difficulty it raises for any adherent of the older view of the Bible, and the lengthy discussions in which they propose numerous solutions to the problem, will know how little it would prove about what the Church always had in the back of her mind if some of them had proposed as a solution the theory that monogamy was not of Divine institution. Despite a widespread opinion to the contrary, the Scholastics were not always afraid of radical speculations in their quest for the solution of difficult problems. The theory of one of the great Scholastics that the Sacrament of Confirmation was instituted by a ninth century Council of no great fame may stand as a striking illustration of this last point.

223. The evidence on the subject of polygamy within the Christian Church is rather fully marshalled in Dr. O. D. Watkins's famous work, *Holy Matrimony*, and somewhat less fully but still adequately in the more recent and at least equally great

book, *Christian Marriage*, by Fr. Joyce, S. J. The evidence does not seem to me to leave the slightest doubt that, from the very first in *Christianity*, monogamy was obligatory for Christians and polygamy was absolutely forbidden. Nor do I think that Dr. Jones has given us any good reason to reconsider this conclusion.

224. I do not have any reason to think that Dr. Jones would even attempt to argue that our Lord meant the word "adultery" in anything other than the accurate "legally exact" sense, apart from his two crucial premises that the second clause of the crucial logion is unhistorical and that polygamy was permissible among the earliest Christians. If he, or anyone else, would attempt to maintain this apart from those two premises, I must refer such a one to the discussion above in Chapter VII, especially in Sections 138-141, where that form of the issue is argued at length. I do not believe it is necessary to add anything here to what is said there on that point.

225. So we must conclude that Dr. Jones' very interesting and intriguing theory cannot stand up under criticism, but rather breaks down completely. I must apologize to him for having discussed outside this chapter certain points very relevant to his theory, and for my inability to find space to repeat those arguments here. I hope this has not given to his case as a whole any *appearance* of greater weakness than the defects in the theory itself justify.

Chapter XI

DR. STOWE ON DIVORCE

226. In the issue of *The Living Church* for October 24, 1943, there appeared an article from the pen of Dr. Walter H. Stowe entitled *The Debate on the Marriage Canon*. With the greater part of this article we have nothing to do in a book like this. But a few of Dr. Stowe's arguments or positions are so relevant to our main contentions in this book that it is necessary to cross-examine them.

227. Dr. Stowe reminds us that since approximately the time of the Emperor Justinian I (483-565 A. D.) there have been two widely different teachings, views, or positions regarding divorce "among the three historic branches of the Holy Catholic Church." One of these—the one held by both East and West before the East departed from the teaching of Christ and of the Catholic Church—he "for purposes of brevity" (?) calls the "Roman" position. This is the kind of compliment Rome seldom receives gratuitously from modern Anglican writers. The other, more understandably, he calls "Orthodox", not with facetious reference to its diametrical opposition to the teaching that is really orthodox on this point, but to the official name of the Holy Eastern Church—a name which on no other subject it so little deserves.

Dr. Stowe then goes on to argue from this sad fact that there is no such thing nowadays as *the* Catholic doctrine concerning divorce. Either the "Roman" or the "Orthodox" position can accurately be called *a* Catholic view. Neither can rightly be called "*the* Catholic view."

228. This argument is so vitally important, if true, that it is quite necessary to criticize it at some length and show how far it is from being true. I get the impression as I read the first

two columns of Dr. Stowe's article that he has studied the history of marriage and divorce much more thoroughly than he has studied the subject of Church authority. If he had studied the latter subject with much thoroughness, he would know that the use he has here made of a *divided* tradition *within* the Catholic Church is a use no competent Catholic theologian will admit for one instant.

229. Dr. Stowe's presupposition, which he never quite states (if he had, he would probably have seen at once how erroneous it is) seems to be that any teaching, view, or position which attains widespread prevalence and official acceptance in a considerable portion of the historic Catholic Church acquires, by that very fact, the right to rank as *a* Catholic view of that subject. He does not make it clear whether it acquires this right *at once*, and *ipso facto*, or only after it has enjoyed this status for a considerable period of time; and, if he holds the latter alternative, for how long a period. But the essential weakness of the position is the same in either case.

230. The great weakness of Dr. Stowe's position is two-fold:

1. No reputable theologian holds anything less than the *whole* Catholic Church to be infallible. Hence it is always possible that the position of any *portion* of the Catholic Church may be guilty of error and even of apostacy. And neither error nor apostacy has any right to be called even *a* Catholic theory.

2. The laws of thought, the laws of reason, require (even if we waive entirely the preceding argument) that where two positions differ from each other in such a way as to be "contradictory opposites", they cannot both be right, nor can they both be wrong.

The great weakness of Dr. Stowe's idea is that it can make no distinction between legitimate and illegitimate differences of opinion. Yet, unless one holds the infallibility of *portions* of the Catholic Church, one cannot deny that even *illegitimate* opinions may prevail within, and be officially accepted by, a portion or portions of the Catholic Church.

Hence the theory which defines "*the Catholic view*" as the view held in unison by *all* historical portions of the Catholic Church, and sees "*a Catholic view*" in anything held by a considerable portion of the Catholic Church (for a long period?) is an egregious oversimplification of a very difficult and complex problem, and so is erroneous and untenable.

231. Dr. Stowe might attempt a reply by pointing to certain particular cases as illustrations of his theory. For instance, most Catholic-minded theologians would agree that there is no one view about the validity or non-validity of sacraments outside the visible Catholic Church which can be called "*the Catholic view*", and that on the other hand there are three views (commonly called the Cyprianic, Basilian, and Augustinian views) any one of which is entitled to be called "*a Catholic view*." But the differences between this case and the one to which Dr. Stowe undertakes to apply the same criterion are so great as to destroy the parallel completely, and so invalidate the illustration. Let us name them briefly:

232. 1. There is no saying attributed to Christ which, either explicitly or by implication, rules on the issue of the validity of sacraments outside the Church. Still less is there any saying which modern criticism can reasonably trust.

2. There was no unanimous primitive tradition of the whole Catholic Church, claiming to base itself directly on a clear-cut ruling of Christ, and settling the issue one way or the other.

3. The practice *may* have been the same everywhere until the third century. But (a) this is denied by the first extant upholder of the Western tradition, who claimed to be basing himself on the traditional practice of his Church (Rome) and (b) most of the early sects were so radically heretical that the early Church was probably never presented with a widespread schism which was not also a radical heresy. So we are in no position to say, with assurance, how the Church of the first two centuries as a whole, would have ruled on the baptisms of any whose sole defect was schism, and who were not guilty of any heresy that would have affected the integrity, either in words or in meaning, of the baptismal formula.

4. The consentient primitive practice (if it was consentient) has not been retained in its integrity in either East or West. The East now makes exceptions and sometimes recognizes sacraments originally given outside the visible Church "by Economy." The West on principle recognizes sacraments as valid outside the Church if the things are all present which are held to be necessary for bare validity inside the Church.

5. An Ecumenical Council has repudiated—at least in principle—the position which *may* have been unanimously held and practiced in the primitive Church by recognizing the validity of the baptisms of some who were outside the visible Church.

233. Thus what we really mean when we say that on this point there is no view that can be called "*the Catholic view*" and that there are three views entitled to rank as "*a Catholic view*" is that the question has never been authoritatively settled either by Christ Himself, or by the Scriptures, or by the Church herself (either *in concilio* or *in diffuso*) and that therefore we do not know which is the true (i. e. Catholic) view, but that three views have a reasonably good claim to be "*the Catholic view*," though, of course, all three cannot be right.

234. In regard to the question of divorce, everything is essentially different. The teaching of Christ on the subject is clear and decisive. So is the verdict of the Scriptures. So is the verdict of the *whole* Catholic Church, *in diffuso*, with virtual if not complete unanimity, for at least the first three centuries, and very possibly for the first five. The only reason an Ecumenical Council did not rule on the point was because no dispute on the subject came before such a Council, and these Councils did not make a habit of ruling on undisputed points. If all of this did not make the view which received such support—and *no opposition*—the Catholic view, then we may reasonably ask, "What would?" There can be no doubt that *before* the *new* view developed in the East, the doctrine of the indissolubility of marriage was *THE* Catholic view.

235. Now if this is correct, and I do not see how it can be challenged by anyone who is fundamentally Catholic, then is it possible to suggest seriously that a mere *portion* of the Church, (which for three if not five centuries bore fatal testimony

against its own present position, and which in more than one way still bears such testimony) could, by *innovating*, and *departing* from the teaching of Christ, the Scriptures, and the whole Church including itself for several centuries, make what was for centuries indisputably *THE* Catholic view any the less so than it had been all along? That is an amazing privilege to concede to infidelity to Christ! Would anyone grant that if some portion of the Catholic Church were to decide today to depart from the doctrine of the Incarnation, or the Atonement, or some other point that is at present indisputably *THE* Catholic view, the view departed from would cease to be *THE* Catholic view, and would henceforth be only *a* legitimate Catholic view, and that the new heresy brought in would henceforth be equally *a* legitimate Catholic view? Impossible!!!

236. In fact, it is a total and incredible perversion of the true idea of the appeal to the famous rule, *quod ubique, quod semper, quod ab omnibus*, to suggest any such misapplication of it. The purpose of that rule was just precisely *not* to enable innovators and heretics to claim for their novelties the same Catholic authority which could be truthfully claimed for the view that had been believed and practiced *ubique, semper, et ab omnibus* BEFORE THE NOVELTY HAD ORIGINATED. Nor can such a novelty acquire Catholic authority by enduring for (say) fifteen centuries in a portion (only) of the Catholic Church, if it lacked such authority when it first originated, or when it was (say) one hundred years old. The whole purpose of St. Vincent's famous rule was to enable the parties to a dispute (and that presupposes that at the time of the dispute the tradition had ceased to be unanimous, and had become divided) to ascertain which of the competing views had the right to be called Catholic *before the division arose* and which was novel, and therefore had no right whatsoever to be called even *a* Catholic view in the true usage of the term; though obviously it would have a perfect right to be called such if Dr. Stowe's sense of the term is meant. By "*a* Catholic view" Dr. Stowe seems to mean "any view which is held by authority in any true portion of the Catholic Church." The traditional meaning of "*a* Catholic view", on the contrary, is "any view which has a reasonable claim to be objectively loyal to the Catholic Faith

as a whole on a point on which *the* Catholic view has not yet been determined."

In other words, no view, however widely and authoritatively held, can ever possibly be even "*a* Catholic view" unless it is objectively loyal to, or at least fully compatible with, "*the* Catholic view." To be sure, it is not always possible to be certain which is "*the* Catholic view" and consequently whether a view authoritatively held within a portion of the Catholic Church is objectively loyal (and so "*a* Catholic view"). Such cases are very likely to arise in matters that have at one time been only unconsciously implicit in the Catholic Faith, and have become explicit only by "the development of doctrine". Such is the point discussed above, the question of the validity of Sacraments outside the visible Church. On that point there was no view that had any right to be called "*the* Catholic view" before the present divergence between the East and West emerged.

This is true even if the Cyprianic view was originally universal. For even if so, it was not based on any teaching of Christ, or on any ruling contained in Scripture, and consequently it had no claim to be divinely revealed. It is, of course, vital to remember that the point at issue when we dispute whether a particular doctrine really is or is not Catholic is not whether it is universally believed, but whether it is divinely revealed. The former criterion is of great importance in so far as it helps us to determine the latter point. But it is, to use the correct technical phrase, an indicative norm rather than a *constitutive norm*; and therefore it has no *intrinsic* importance, in and of itself. In other words, it helps to *tell* or *show* us *whether* a doctrine is divinely revealed. But it is not what *makes* it divinely revealed. I have discussed this very important issue at some length in an article in *The American Church Monthly* and which is now available in the form of a reprint obtainable from the present writer. It is entitled *The Anglican View of Catholic Teaching Authority*. It is not possible to go into the matter at greater length in this book.

237. On the other hand, in cases where St. Vincent's rule enables us without difficulty to determine which of the presently

competing views was "*the Catholic view*" before the present division arose, the one of the present views which agrees with that view will remain, AS MUCH AS IT EVER WAS, "*the Catholic view*", and the other will not be even "*a Catholic view*" but simply a departure from "*the Catholic view*". To interpret and apply the *quod ubique* criterion or rule as Dr. Stowe has done is to defeat and completely thwart the very purpose which the rule was intended to promote and achieve.

238. As mentioned somewhat above, even the present Eastern Church bears witness against itself in more ways than one on this issue. For one thing, there is its own early history, when it undoubtedly held the same doctrine *and practice* on this point as the rest of the Catholic Church. For another, there is the fact that for a considerable time after the *practice* of the Eastern Churches began to get lax on this point, the teaching of their greatest theologians, or at least the great majority of them, continued to be in favor of indissolubility. Even later, when (as a Conference on this subject was recently told by Dr. William H. Dunphy, one of our leading authorities on the Eastern Church) the "theologians and canonists of the Eastern Church were scarcely on speaking terms" with each other, the theologians as a rule, and in total disregard of the irreconcilable provisions of their own canons, and contemporary practice, continued to declare and teach the doctrine of indissolubility; though of course at this period many exceptions can be quoted.

239. Finally, even the present Eastern theory, as represented by Dr. Stowe himself, bears very cogent testimony in favor of the doctrine of indissolubility. For the present rationalization about "spiritual or moral death" cannot be taken seriously by the historian as having any real connection with the departure from the primitive practice by the Eastern Churches. It is a rationalization pure and simple, devised to save the doctrine of indissolubility at least in name by changing fundamentally its meaning. I do not imagine that any sincere believer in the doctrine of indissolubility will get much comfort out of this way of pretending not to have broken completely with that doctrine. But at least the very attempt—yes, the very absurdity of the attempt—makes all the more significant the fact that at least lip-service has to be paid to the doctrine by the Eastern

Church. If the doctrine were not so indisputably and unassailably and unchallengeably "*the Catholic doctrine*", we may be sure no such amusing pretense to be loyal to it would have been necessary.

The modern rationalization does not reach back anywhere near to the date when the East (on this point) gave in to the world, the flesh, and the devil, aided and abetted by the Imperial State. So it cannot be in any sense a cause, or explanation, or justification of the innovatory laxity. It is rather an afterthought (a rationalization, in the modern psychological sense, as we have called it above) which attempts to bring the canonists, who allow the dissolution of marriage for many causes, and the theologians, who out of loyalty to Christ, the Scriptures, and the Catholic Faith go on teaching the doctrine of indissolubility, back onto "speaking terms" again, to use Dr. Dunphy's expression quoted above.

240. Dr. Stowe is quite misreading history when he maintains that "As early as 1808, 135 years ago, the Episcopal Church in America lined up *in principle* (italics his) with the Eastern Orthodox view by allowing remarriage to the innocent party in a divorce obtained on the grounds of adultery." Nothing was further from their mind than the Eastern Orthodox view. They mistakenly thought that Jesus Christ, their Lord and Savior, had legislated to make one exception to His own teaching that marriage is indissoluble. And they were trying to be loyal to Him and to obey Him, however sadly their effort may have miscarried, due to the limited knowledge of the Bible through the lack of the modern critical view in their day. But there was no idea in their mind that marriage could be dissolved by "spiritual" or "moral" "death". So their agreement with the Eastern Church was just precisely *not* "in principle". Only by accident, in the practical result, and in small part, was there agreement.

241. In closing I wish to discuss briefly two somewhat extraneous points. The first of these is Dr. Stowe's conception of "the laity." He speaks as if they were a group who do not give a —— for the truth, or for the teaching of Christ, or the Bible, or the Catholic Church as a whole, or their own particular

Church. No doubt, on a very superficial view, the votes of approximately two-thirds of them in the recent General Convention give decisive support to his apparent conception. As someone has expressed it, "The further any concrete proposal was from Galilee, and the nearer it was to Reno, the more applause it drew, and the more enthusiasm it awakened." But this, on a less superficial view, is grossly unjust to the laity. If the majority of them are on the opposite side of the fence from Christ, His Church, and the Bible, at least they are not there intentionally or consciously. Making allowance always for a few who are so holden with pride or so set on justifying their own remarriage as to put their own inadequately informed opinions above all these authorities, I feel safe in saying that the laity are, as a group and as a class, just as (subjectively) loyal to Christ and His Church as are we clergy.

If they are less objectively loyal, it is largely our fault, because we have left them so largely uninformed as to what Christ really taught on this point; or, in some cases, have even misinformed them on this point (I do not doubt in perfectly good faith) because of the mistaken belief that "modern criticism" has "established" some such "result" as that contended for by Drs. Easton and Grant and opposed in this book. Their antecedent sympathies, based on feeling rather than full and accurate historical and theological information, are on the side of a lenient canon (as, to be perfectly frank, are mine also). But I believe they would be just as ready as we clergy are to subordinate their own preconceived ideas to the teaching of Christ, the Bible, and the Church, if we will only make it our business to seek relentlessly, and despite our own preferences, to ascertain what these supreme authorities of the Christian religion really teach on the subject of divorce, and then to teach our results as clearly and fully and honestly as possible to the laity. No doubt this cannot be accomplished in time to have every layman well informed by the Convention of 1946, or even 1949. But it can be done in due time; and it is our duty. It is as a contribution toward this end that this book is being written.

242. The second point is the unfavorable judgment I have been forced to pass, in this chapter and to a lesser extent elsewhere in this book, on the great Eastern Church. I am sincerely

sorry that a more favorable judgment has not been possible. If I cannot now reverse it or moderate it, I can at least record my profound conviction that if the judgment were being passed on the record of the Eastern Church as a whole, instead of on the single issue of divorce and remarriage, that Church would deserve its honorable title of Orthodox at least as richly, and probably more richly, than either the Roman Church or the Anglican Church. No part of the Catholic Church can truthfully claim to have been 100 per cent loyal to her Divine Head. No part can escape conviction of formal disloyalty at some point or points. Only the whole Church can be acquitted of this charge.

It is a long time since I had any doubt that if the time ever comes, which may God forbid, when there has ceased to be an Anglican Church which is truly Catholic, I would have to find a home in the Holy Eastern Church, despite her grave defect in the matter of divorce. For she would be the only Catholic Church left which did not require un-Catholic terms of Communion. And her defect on this point, though very grave, has not destroyed her Catholicity, her status as a true Catholic Church. If we hold unfaithfulness on the question of divorce to have that effect, we would not be able to uphold the Catholicity and true Churchly status of any part of the Catholic Church at all. For on this point, though in very varying degrees, they "have all failed, and fallen short of the glory of God."

243. Dr. Stowe has words of praise for "the Phister Canon". In his eyes it "holds the center of the stage . . . for simplicity, workability, and consistency of moral principle, once the validity of the Eastern Orthodox position concerning the spiritual death of a marriage is admitted, the Phister Canon is like a strong gust of fresh air in a rather stale atmosphere—surprising, nay, startling at first, but refreshing after one gets a little used to it." Of course, if the Eastern Orthodox "position" just described is admitted, I suppose the rest of Dr. Stowe's language may be justifiable. The trouble is, that position is, as has now been established in this book, utterly inconsistent with the teaching of Christ, has no claim whatsoever to be called even a Catholic view, still less to be called a *Christian* view, and the attempt to reconcile it with the Christian doctrine of the

indissolubility of marriage, by talking about the spiritual or moral death of a marriage is pure verbal legerdemain, an effort to evade an overwhelming and inescapable difficulty by a near-pun. By a Christian view we ought to mean, if the idea is to be in any measure at all complimentary, or even relevant, a view that is at least consistent with the teaching of Christ, not a view held by anybody who professes and calls himself a Christian. We can get some very strange results if we accept the latter definition. I doubt if there is any moral monstrosity which would not be "a Christian view" on that definition. The evident premise underlying "the Phister Canon" is either that Jesus Christ was wrong in declaring remarriage after divorce to be adultery, or else that He did not so declare. The latter alternative is historically false. The former is pure and simple apostasy! From such a "gust of air", good Lord, deliver us!

244. Fortunately, it is once more possible to close on a note of agreement. Dr. Stowe writes, "But there is a fatal flaw in this argument (the argument that persons remarried, after divorce, outside the Church, can be admitted to Confirmation and Holy Communion by the Bishop for good cause) . . . It concerns the question of whether or not the 'godly discipline both of justice and mercy' must be, or should be, in contradiction of the moral principles upon which it is based. If the remarriage of divorced persons is under any and all circumstances illegal at the best and sinful at the worst, how can a Bishop logically and consistently approve an illegal marriage and admit to Communion two people living in a sinful state? This fatal weakness and inconsistency in straight moral thinking is present in the existing Canon 42, and the only way a straight-thinking Bishop can resolve this moral confusion and contradiction is to believe in the Orthodox principle . . ."

245. A Daniel come to judgment! Spoken like another Aquinas! However, Dr. Stowe is too pessimistic in the final sentence quoted just above. A straight-thinking Bishop can resolve this moral confusion and contradiction by putting on the Canon the interpretation defended in Appendix C of this book. So interpreted, there is nothing in Section VII of our Marriage Canon to force a straight-thinking Bishop to accept

the impossible Orthodox "principle" in order to resolve the "moral confusion and contradiction" which only the "liberal" misinterpretation of Section VII introduces into our whole position on divorce. But we owe Dr. Stowe a great debt of gratitude for exposing so clearly the moral obliquity of the current "liberal" misinterpretation. He has, without intending to do so, given us a strong argument in favor of the correct interpretation, which makes the Canon a consistent whole (as certainly should be done, if at all possible)—the interpretation defended in Appendix C.

Chapter XII

WHAT SAITH REASON?

246. So far we have been studying the purely historical issues involved in settling the question what the historical Jesus actually taught in the matter of marriage, divorce, and remarriage after divorce. Our answer has been clear, certain, and overwhelming. But we have agreed that our Lord's teaching on this subject is not what ethicists and moral theologians call a "positive" law. In other words, remarriage after divorce is not a sin because Jesus then and there made it one. On the contrary, Jesus simply made unambiguously clear to us what had all along been God's will on this point, and in that sense what is "the law of nature", which is the "law of God" as far as this can be known to us (not by revelation but) by pure reason. Our Lord's teaching is *decisive*, for any sincere and whole-hearted disciple of His, *that* remarriage after divorce *is* adultery. But His teaching is *not* what *made it* adultery. But if not, then we ought to be able to find reasons for the truth as our Lord taught it. Let us, then, ask the question, "What saith Reason on the subject of indissolubility?"

247. To begin with, most of our opponents do not question that divorce is a great evil. Nor is it easy to see how they could. The natural, normal tendency of divorce, apart from exceptional cases, is to produce results closely resembling, even if they are not in all respects identical with, the results arising from the death of one of the parents. Now I suppose no one will deny that, apart from exceptional cases, orphans are greatly to be pitied, highly unfortunate, and subjected to great disadvantages. It is certain that the Author of Nature cannot will that such results should be the rule or norm. Consequently, it is a certain logical inference from this that "the law of nature", inasmuch as that "law" is given or imposed by the Author of Nature, forbids divorce.

248. In view of the fact that this important point is not as widely disputed as the further point which we are to study more at length in the present chapter, I shall not take the space to develop it here. If any of my readers is doubtful about the validity of this conclusion, I hope I may be allowed to rest content with referring him to the very satisfactory and cogent arguments advanced in Chapter I of Fr. Joyce's monumental work, *Christian Marriage*, especially Sections 6 and 7, pages 21-31. Perhaps an even more magnificent statement of the case can be found in Volume II of another truly monumental work, entitled *The Science of Ethics*, by Fr. Michael Cronin, S. J. His entire treatment of marriage and the family occurs in Chapters XIII and XIV of Volume II, and his treatment of indissolubility in particular occurs in Chapter XIV, pages 429-442. If we Anglicans may rightly claim that Roman Catholic scholars have need to sit at our feet and learn from us on many points of historical criticism, especially in biblical questions, we must on our part be honest enough to admit that on matters such as philosophical ethics, exactly the reverse is true, on the whole.

I know of no Anglican works which contain a treatment of this subject in any way comparable to these two named; and it would be easy to name several others almost equally good. However, I would like to supplement these two references with a reference to the splendid little book of Bishop Kirk used often above, entitled *Marriage and Divorce*, in the series entitled *Standpoints*. In this book Bishop Kirk discusses very profitably many of the arguments from reason pro and con in the matter of divorce, and of remarriage after divorce, and his very modern discussion at many points admirably supplements the discussions and arguments along strictly Scholastic lines by such writers as Joyce and Cronin, to say nothing of Rickaby, and the classic treatment of St. Thomas Aquinas. I can see no advantage in attempting to reproduce, in a book which has already gone far beyond the limits of space I originally intended to allow, a case that has already been so admirably—and in my opinion decisively—presented elsewhere.

249. I shall, then, assume as axiomatic, and as admitted by our opponents, the fact that divorce is a great evil. I shall also be bold enough to hope that most if not all of our opponents

will admit that, consequently, the "law of nature" (or, in other words, the will of God) forbids divorce, at least in the sense of frowning upon it, and apart from exceptional cases. The two great questions that would then remain to be settled would be, first, "Does God not only frown upon divorce, but absolutely forbid it by making it not only sinful but null and void?" and secondly, "Does God take this attitude toward all cases whatsoever, without any exceptions at all; or only toward divorce as a general rule, while allowing exceptions in some cases?"

We can profitably consider the second question first. For if we find occasion to answer it the way I think we shall, it will automatically settle the first question at the same time.

250. At first sight, a very tempting case can be made out for exceptions to the general rule allowing no remarriage after divorce. It can be justly pointed out that there are cases in which the very arguments which, in the great majority of cases, tell against allowing divorce, in the sense of separation of the parents from bed and board, do in some cases tell in exactly the opposite direction. There are certainly some cases in which the disadvantages of being an orphan would be less than the disadvantages of continuing to have to live in the same house with a certain particular person as father or mother, due to the vicious or worthless or neurotic character of one or both of the parents, or to other equally grave considerations. Moreover, this point is at least implicitly admitted by the fact that the advocates of indissolubility who are the most vigorous and uncompromising of all opponents of divorce, are not opposed to but rather definitely sanction "divorce from bed and board" in necessary cases. Thus it seems to be admitted that, at least in exceptional cases, God does not forbid the creation, by "divorce from bed and board", of the very conditions amounting to orphanhood which are the chief argument against the liceity of divorce in normal or average cases.

But if this much has to be admitted, continues the argument, then why may not remarriage after such divorces be allowed to be morally licit, at least in all *such* cases? Or, if not in *all* such cases, at least in such cases as seem to be beyond any hope of remedy within any reasonable space of time by the

method of reconciliation? It is not only the comparatively blameworthy party in such broken marriages that is injured by the alleged "law" of indissolubility. It is the comparatively innocent party even more, in many if not most cases. But perhaps the chief victims of this alleged "law" are the very children in whose name the "law" is alleged to have been decreed by the Author of Nature and so of Nature's Law. By this "law" it is made impossible for them to secure a new father or mother to replace the one lost by the admittedly justified "divorce from bed and board."

251. In support of this argument it is possible (as Dr. Frederick C. Grant has so eloquently and persuasively done near the close of his article in *The Churchman* for September 1, 1937, entitled *Marriage: The Gospel and Canon Law*), to adduce innumerable cases in which either (a) the "law" of indissolubility leads parents to follow a course which would be more injurious to the "innocent" parent, or to the children, or to both, than would separation "from bed and board", or else (b) in which it stands in the way of a happy solution of the problems raised by a prior marriage which has already hopelessly and irreparably failed, and in which no good can be done to anyone by treating that marriage as still intact when in actual fact it is as dead as the proverbial doorpost.

252. Such a plea is to many very attractive and convincing and even irresistible. And it seems to become overwhelming when crowned with the triumphant question, "If you are going to allow divorce 'from bed and board' in some cases, and admit that it is not only permissible but desirable and even at times necessary, then why in the name of common sense forbid the one thing—remarriage—which holds out some prospects of remedying, at least in part, the wreck left by the prior marriage that has failed and gone completely and irretrievably on the rocks? It is all very well to demand that individuals make sacrifices for the common welfare. But why demand that these sacrifices continue when they can no longer do any good?"

253. Despite the superficial attractiveness of such a case, and the truly heart-rending appeal for exceptional merciful treatment made by many of the "hard cases" it is easy to produce, I am overwhelmingly convinced that this argument is

superficial and short-sighted. The real issues it raises seem to me to be two. One of these is "Is it possible to grant *any* exceptions to the rule of strict indissolubility without causing the number of broken homes to increase immeasurably?" The second issue is, "If the answer to the first question be in the negative, then which will do the more harm, *in the long run*, and to *society as a whole*, an immeasurable increase in the number of broken homes, or the undeserved hardship that must be suffered by a small minority who constitute the 'hard cases' on which the plea for exceptions rests?" I shall develop these two issues a bit.

254. I want to begin by saying as clearly as the English language allows that I am not laboring under the false impression that the "law" of indissolubility, even if sincerely accepted by all men, will put an end forever to all broken homes. The causes of such broken homes are far too many and too complicated and too irremediable, in many cases, to enable any intelligent person to harbor any such hope for one instant. Nor can we deny that, in many other cases similar to the few Dr. Grant produces, an inadequate understanding of the implications and applications of the principle of indissolubility has often led a man and a woman to refuse to resort to separation "from bed and board" in cases where that would have been the lesser of two evils. Nor can we deny that, in many cases, IF we isolate them from their *long-range* effects on *society as a whole*, remarriage would do at least more good than harm, and in some cases would do no harm at all, and very great good.

255. But when all of this has been fully and gladly conceded, I do not see how we can close our eyes to the one brute fact that seems to me inescapable and absolutely decisive. That fact is that we cannot allow remarriage in any case, however exceptional, without surrendering the whole principle of indissolubility. And as soon as we do that, we have produced results that affect every marriage, not only in Christendom, but even outside it. For we have made possible a "happy ending" to a broken home. Now that might sound at first sight like a very strange objection to raise. What could be more desirable than a "happy ending" to such a calamity? If we consider the question from the standpoint of homes already broken, hopelessly

and irretrievably, the answer of course is "Nothing". But what about the effects of the *mere possibility* of a "happy ending" on homes that are not yet broken, and that are beset by the problems and difficulties out of which broken homes could result, and often do result, but need not result? And what about the effects of the possibility of a "happy ending" *in some other way than by reconciliation* on homes that are broken, but in which cases there is no insuperable reason why the initial failure cannot be remedied, or at least no certainty that an effort in that direction should not be made? Let us consider these two very different types of cases separately.

256. The causes which make many marriages "fail" and many homes thus to be broken are almost infinitely variegated. These "failures" and these broken homes are seldom the result of one single cause or event, however great and serious. They are far more likely to be the result of both parents being human beings, and of the children also being human beings, and of the conflicts of desires, tastes, interests, etc. resulting from their human limitations; from selfishness and greed and laziness and other such common *and definitely not extraordinary* human limitations; from the innumerable tensions, jealousies, fears, feelings of insecurity, etc. These things are seldom trivial enough to be called molehills, but on the other hand seldom serious enough to be deemed mountains. Whether the marriage "fails" and the home is broken depends in the overwhelming majority of cases on how these incipient causes of divorce are taken and how they are handled; on whether they are magnified into mountains, or minimized into molehills.

Now I do not see how any reasonable person can hide from himself the fact that the possibility of divorce, IF it carries with it the possibility of a second marriage "happier" and "more successful" than the one now proving so far from the ideal dreamed about in childhood days, has a natural, a strong, and an inevitable tendency to cause the married couple, or at least one of them (which is usually all that is necessary to wreck a home that is already beset by incipient difficulties), to let these difficulties develop gradually, even if not quickly, into mountains. On the other hand, if the principle of indissolubility is axiomatic, and as a consequence the story *cannot* end

"and he met another girl, far more beautiful and wonderful than his first wife, and they fell in love, and were married, and lived happily ever afterwards" but *must* rather end "so he had to be an involuntary celibate the rest of his life", the tendency is bound to be very strong to make out of these incipient difficulties molehills rather than mountains.

Let no one forget that I have already said that these two diametrically opposite tendencies will not, *in all cases*, make the crucial difference between "success" and "failure" in a marriage. In some cases the obstacles are so great that the marriage will fail regardless of the strongly motivated tendency to "make molehills out of mountains". In other cases, the difficulties are so slight, or the parties to the marriage so admirable, that the marriage will succeed even though the opposite tendency may be at work, or at least available in case of need. But in the great majority of cases, I do not see how it is possible to deny that it will, or at least well may, make all the difference in the world whether the tendency is to reduce the difficulties to molehills, or magnify them into mountains. So the *tendency* of the doctrine of the dissolubility of marriage is to *increase greatly* the number of divorces and broken homes. On the other hand, the *tendency* of the doctrine of indissolubility is to hold such cases down to an *absolute minimum*. And the more reputable and respectable divorce becomes, the more the former tendency is accentuated.

In his article in *The Anglican Theological Review* which is criticized in Chapter X of this book, Dr. Bayard Hale Jones has, no doubt quite unintentionally, provided us with a very cogent statement of this last point, by emphasizing how different it is today when in society no stigma attaches any longer to being a divorced person, and how daring it seems to him to brand as adultery a practice which the civil law fully recognizes, and society treats as perfectly respectable. And all this has happened in a country where considerable Catholic influence still prevails, through the influence of the Episcopal and Roman Catholic Churches, and where Protestantism has not gone over entirely to the logic of the position of dissolubility, at least not officially and formally. How tremendous has been the drift in that direction during the last two generations! And

how appallingly must we expect this drift to be accentuated during the next few generations to come! And how much worse would the situation be, in all probability, if it were not for the surviving effect of the tradition of indissolubility! On the whole, then, the maintenance of the principle of indissolubility is of the utmost importance for the permanence of marriage and the home and family, while the recognition of the principle of the dissolubility of marriage would be a lethal blow at their stability.

257. So far we have been considering the tendency of the principle of dissolubility in the case of marriages which have not yet been broken. But the same general tendency would be at work in the case of marriages that have already been broken at least temporarily. It is true, of course, that in some cases it is not even desirable that the breach should be repaired. But in many cases, reconciliation is at least desirable, and not at all obviously impossible. Now I do not see how any objective thinker can fail to see that where the principle of indissolubility prevails and is in good faith accepted, there is bound to be a strong incentive, or rather group of incentives, working toward reconciliation. The welfare of the children, and to some extent of the more innocent party (especially where that is the wife) puts strong pressure on the offended party to accept reconciliation. The sex drive, so strong in leading men and women to assume the burdens and responsibilities of marriage in the first place, is bound to work strongly in favor of reconciliation, if it is recognized that, apart from the improbable death of the other party there is no other honorable and moral method of satisfying that powerful appetite. The desire for a normal home life, with all that a man and woman can do for each other, and that children can do and be for them both, is certain to pull in the same direction, where there is no hope of securing the same end in a second marriage. All of these motive forces are likely to be very much strengthened if the parties are seriously religious and moral, and are in earnest about saving their souls. For that will be far easier if the path of reconciliation is followed than if they follow the path of permanent estrangement, and separation "from bed and board".

On the other hand, most if not all of these forces working in favor of reconciliation would be cancelled (and in some

cases more than cancelled) if a second and "happier" and "more successful" marriage is a tempting prospect to dangle before the eyes of one of the parties to the temporarily broken marriage.

258. Furthermore, it must be recognized that many of the elements which provide the basis for the most plausible pleas for the right of divorce in many of the "hard cases" can be satisfied, or at least considerably alleviated, by resorting to the privilege of "divorce from bed and board" which the Church has believed herself at liberty to allow in necessary cases, and which does not gravely undermine the principle of indissolubility. If Dr. Grant, or any reader who may have been moved deeply by his touching collection of "hard cases" to prove the "absurdity" of the principle of indissolubility, will read those cases over carefully, with this point in view, he will find I think that "divorce from bed and board" will go far, if not the whole way, toward solving several of the problems they raise, especially in his second and fourth cases.

259. Yet again some of Dr. Grant's "hard cases" and of the hundreds of others they typify are cases in which remarriage has already been attempted, and effected as far as the law of man can set at nought the law of God. These "hard cases" and all others of the same class, are caused by the operation of the principle of dissolubility, and would never have arisen if the principle of indissolubility had been accepted and in force not only among all those "who profess and call themselves Christians" but by the state as well.

260. Thus we find that a considerable amount of the evil and hardship arising in the "hard cases" which form the basis of the plea for exceptions to any law or rule of indissolubility is due not to the natural, logical, and inevitable operation of the principle of indissolubility, but to its having been flouted and violated. And a considerable portion of the remainder can be removed, or at least minimized, by allowing "divorce from bed and board" without any claim to have ruptured the indissoluble bond, and consequently without undermining the principle of indissolubility.

261. There remains, of course, an irreducible and inescapable residuum of hardship, undeserved hardship, cruel and

bitter hardship, toward which the principle of indissolubility can assume only a *non possumus* attitude. Is this a valid objection to that principle? I think not. For it can be justified as the price that must be paid by unfortunate *individuals* lest *society as a whole* suffer *greater evils* through the *inevitable weakening* of the marriage bond which would *automatically accompany* the acceptance of the principle of dissolubility.

Nor is it true to say, as our opponents often do say, that no good whatsoever is done, or can possibly be done, by the hardship and sacrifice which are required of these poor unfortunates by the principle of indissolubility. If they seem to do no good to any particular individuals by their great and bitter sacrifices, this is true only in appearance, and not in reality. It is true only on a very narrow and short-sighted view, not on a truly broad and foresighted outlook. If individuals gain nothing *directly* by these sacrifices, the institution of marriage gains tremendously through the upholding of the principle of indissolubility, and the immeasurable strengthening of the marriage bond which that principle carries with it.

Of course an institution sounds like a particularly cold and heartless thing for which to be called upon to make such great sacrifices. But "the institution of marriage" is only an abstract way of referring to approximately a third of a billion marriages and half the human race who are the spouses in those marriages. What wife is there who would not feel more secure if she could be sure that the law of God is as Jesus taught, and that the law of man would never attempt to override God's law, and that consequently no other woman would ever be able to steal her husband from her? And, *mutatis mutandis*, the same question can be asked for all husbands. And how many children would be happier and more secure if they could be sure of the same thing, and of all its corollaries? And how much easier it would be to take a firm and effective stand against hasty and unwise marriages which give rise to so many of the "hard cases" if both parties knew that there was no possibility of "another try" in case this one failed! And how many other good results, both direct and indirect, both immediate and long-range, could be hoped for and reasonably expected from the universal acceptance on this point of the law of God, as revealed to us by Jesus Christ!

262. Is it unreasonable—above all, is it un-Christian—to ask those unfortunate enough to be the victims in the unalleviable “hard cases” to make such great and bitter sacrifices for the sake of such great good to so much greater a number? The example of the One who first taught with authority the principle of indissolubility that requires such sacrifices, and who was willing to make Himself a eunuch for the sake of the Kingdom of Heaven, and finally to shed His blood for many for the remission of sins, and to let His body be broken, and to give His life a ransom for many, supplies the final and decisive and all-sufficient answer. Christianity is, in its very heart and essence, **THE RELIGION OF SACRIFICE.**

263. It is of no avail to object that many will never accept this principle, or consent to make the sacrifices for which it calls. We must judge *any* principle by the results it has on the lives of those who sincerely and wholeheartedly accept it and try to live up to it. To judge it by the effect it has—or fails to have—on those who reject it and flout it is the acme of unreasonableness.

Moreover, in this particular case, due to the public nature of marriage and the consequent possibility of regulating it, such laws and rules as would be necessary to give force to the principle of indissolubility ought to be able to be enforced with reasonable effectiveness even from the first, and with increasing effectiveness as time passes. That there would be some accompanying evils, besides those involved in the unalleviable “hard cases”, such as a certain amount of fornication or adultery on the part of those divorced “from bed and board” and forbidden to remarry, and a certain number of illegitimate children, and an increase of venereal disease due to the aforementioned sins is hardly to be denied. But much could be done by law to alleviate or minimize these evils. And in any case, their sum total, even when added to the undeserved sufferings of the comparatively innocent in the unalleviable “hard cases”, would fall far short of the harm that would be done (and to a considerable extent has already been done) to the institution of marriage, the family, and the home, and to the stability of the marriage bond, by the rejection of the principle of indissolubility.

264. What I have written in the preceding paragraph is directed toward the duty of the state to cease presuming to claim to have put asunder (despite the clear and point-blank warning of Christ) those whom God has joined together. But, whether the state "will hear, or whether it will forbear", there is but one course open for the Church of Christ. That is to accept His teaching and hew rigidly to the line, without counting the cost, in regard to her relations with either a really un-Christian state or an un-Christian society. The battle will undoubtedly be long and hard and very much uphill. It will not be more so than the battle the Western Church once fought and won on this very same issue between 500 A.D. and 1300 A.D. If we have lost today most of the ground so painfully won in that long battle, it is because Protestantism, which on many points has made such noble contributions to the application of the teaching and principles of Christ to the life of the human race, has on this particular point, in an understandable if not justifiable reaction from the medieval practice of the compulsory celibacy of the clergy, and influenced by a one-sided biblicalism, initiated the break in the dyke, which though for a considerable time held to not much more than a trickle, has recently showed unmistakable signs of becoming a raging flood.

The devotion of the best Protestant scholarship to the scientific historical method, even when applied to the Scriptures, and their stern effort to be objective even when that would carry with it an admission that they have been wrong on a particular point, (for Protestantism makes no claim to infallibility) contain within themselves the hope of the correction of this great error, which has led most forms of organized Christianity into a position that fundamentally undermines the teaching of Christ. We have seen above, in Chapter V, how reasonable an excuse the "exception-clause" in the First Gospel provides (or, as long as it was deemed historical, seemed to provide) for the permission of at least one exception to the indissolubility of marriage; and it is clear that, when thought through logically, even one exception fatally undermines the whole principle. But if the historical results reached in this book are sound, it must be admitted that this permission of an exception,

though excusable under the circumstances, was a fatal departure from the position taught by Christ.

265. At an early stage of our argument in the present chapter, we asked the important question, "Does God only frown upon divorce, or does He absolutely forbid it by making it not only sinful but null and void?" Our subsequent line of reasoning has supplied us with the answer. Only by making a second marriage *impossible* can the maximum amount of stability be imparted to all first marriages. If second marriages are only frowned upon, but not definitely sinful, they will continue to take place. Nor will this result be prevented (though it would be reduced somewhat) by holding that second marriages are always sinful, but that nevertheless they are valid when they have once taken place, and hence need not be broken off as an essential and integral part of sincere and full repentance. Too many men and women would find it possible to have weak moments in which they would contract second marriages, even though they knew them to be sinful, if the sin could afterward be forgiven without having to surrender the ill-gotten fruit of it. Only the principle of absolute indissolubility will exclude completely the possibility of a new and "happier" and "more successful" marriage, and by so doing kill all temptation to let the first marriage fail avoidably, and "have another try".

266. It might be objected—plausibly, at first sight—that our main argument against divorce was that it created the same situation, approximately, as the death of one of the parents. Yet we have now wound up by admitting the permissibility, in certain cases, of divorce "from bed and board", which does exactly that, while on the other hand refusing obstinately to admit the permissibility of remarriage in any case, although remarriage would never create a single case of the sort, since it is possible only after the case has already developed, and might well remedy some cases by providing the children with a good step-father or step-mother in the place of a bad natural parent.

In reply, I shall pass over, as not going to the heart of the issue, the point that step-parents are not usually a happy solution to this problem, and that most children would rather have no parents at all than step-parents. For the really important

point for our main problem is that the possibility, in cases of real necessity, of "divorce from bed and board", does not present a very attractive prospect, and is therefore not likely to result in any increased tendency to resort to this way out of an unideal situation, unless and until it really becomes intolerable.

On the other hand, if it is accompanied with the prospect of a new and "happier" and "more successful" marriage, the whole situation is essentially altered. So hopeful a prospect *encourages strongly* what the alternative prospect strongly *discourages*, and by so doing becomes an enemy of the stability of first marriages, instead of a pure and simple safety valve, which is so unpalatable that there is little likelihood of it being resorted to unnecessarily. Divorce under circumstances in which remarriage is allowed is likely to be resorted to all too easily, and certainly not deferred until the situation in regard to the first marriage is really intolerable; especially since, if first marriages are dissoluble, so also will be second marriages, and consequently, if the second marriage also fails, a third is still a tempting prospect.

267. It is not what the principle of dissolubility would do in every single case, but its natural and inevitable *tendency*, in the general run of cases, which shows it to be inimical to the welfare of the home, the family, and stable marriage, and so reveals its contrariety to the Law of Nature, or in other words to the Will of the Author of Nature, God.

Chapter XIII

WHAT SHALL WE DO ABOUT IT?

268. We have now finished the statement of the case. If I mistake not, we have established irrefragably the fact that Jesus Christ Himself taught—and meant—the indissolubility of marriage. In our first four chapters we stated the positive case for this conclusion, and in our seven next chapters we considered numerous objections that have been raised against our thesis, and several alternative theories, and found them all wanting. Then, having completed the historical case in the first eleven chapters, we sought the verdict of reason in Chapter XII, and found that verdict to be, as we would naturally have expected it to be *a priori*, in complete harmony with the teaching of Incarnate God. We must now go on, in the present chapter, to ask and answer the question, “What ought the Episcopal Church to do about it, on the premise that our conclusions in the first twelve chapters have been correct?”

269. First of all, the Church must refuse absolutely and unqualifiedly to give any sort of countenance whatsoever to the remarriage of a divorcee during the lifetime of the other party to the first marriage. This would exclude not only allowing the divorcee to marry in the Church, or to be married by a clergyman of the Church, but also any more covert form of sanction, or even of toleration. In this connection, we ought to repeal at once the second subsection of Section VII of our present Canon, or else so amend it as to make it unambiguously clear that the interpretation contended for in Appendix C is correct. For that subsection, if given the usual interpretation, sets no limits at all on the power of the Bishop to give judgment in favor of a couple who have been married by Civil Authority, or otherwise than this Church provides. And if the Bishop gives a favorable judgment, a priest of our Church

is authorized, in his discretion, to "bless the *parties* (italics mine) to the union."

270. Dr. Stetson, Rector of Trinity Church, New York city, at the time the Canon was amended in 1931, a delegate to General Convention that year, and a member of the Commission on Marriage and Divorce, asserted just after the amendment was passed that there was an *intentional* distinction here between blessing the *union* (which was not permitted) and blessing the *parties* to the union, purely as individuals. I hope Dr. Stetson's interpretation is correct. At least he has the wording of the Canon on his side. Yet this advantage is not decisive, for a supporter of the opposite interpretation could very reasonably urge that it is not possible to bless an abstract thing like a union, but we can bless only the persons who are parties to the union, even when a marriage is entirely unexceptionable in the eyes of the Church, and that therefore we mean exactly the same thing when we speak of blessing "the union" that the Canon means when with greater precision of speech it speaks of blessing the parties to the union.

271. Now if that last contention is right, and if, as the usual interpretation assumes, there are no limits at all to the Bishop's right to give a favorable decision in marriages outside the Church, then the subsection in question authorizes a priest to bless, in his discretion, what Christ called adultery. That, of course, is utterly indefensible. But even if Dr. Stetson's interpretation is correct, and we have no right under the Canon to bless adultery, the provision is still deplorable. For it is so highly ambiguous that it can easily be misinterpreted as blessing, and so sanctioning, the union contracted by the parties. Not only the parties, but even the priest himself, might very excusably be guilty of this misinterpretation, and consequently lead the parties to think the Church has sanctioned their marriage. The result, horrible to contemplate, would be that instead of being influenced by the attitude of the Church to amend their adulterous course, they would be encouraged to persevere in it, fortified by their belief that the Church had approved their "marriage".

272. We ought also to repeal immediately the exception made in the present Canon in favor of the so-called innocent

party in a divorce for adultery. I have already expressed, in Appendix D, the opinion that that Proviso is, and always has been, unconstitutional. But the machinery for securing an effective judgment to that effect is of very doubtful efficacy. The simplest and also the most honorable way to remedy and make amends for our past delinquency on this point is to repeal the Proviso. If it be objected that the laity will never consent to this, I reply that if the contentions of Chapter V of this book are correct, and if *all* the Bishops and clergy present at General Convention (not only conservatives but "liberals" as well) will with one consent assure the lay delegates, who cannot be expected to be abreast of the results of the latest scholarship, that this point is really decisively settled, and is one of the assured results of modern scholarship to which the Canon of the Church should be made to conform, the laity will vote for the amendment, at least in sufficient numbers to secure its passage. If this effort fails in one Convention it can be repeated in another and still another, if necessary, until it succeeds. Of course this need not in any way prevent someone from testing the constitutionality of the Proviso in the meantime, if some way can be found to secure an authoritative ruling.

273. In the meantime, any priest who accepts the conclusions reached in Chapter V of this book can, without waiting for the Proviso either to be repealed or to be declared unconstitutional, at once put his conclusion into effect as far as he himself is concerned by refusing absolutely to solemnize or bless any such marriage, even if the innocent party in a divorce for adultery is involved. The Canon itself explicitly bestows on every priest the right to decline to solemnize *any* marriage whatsoever, even if the marriage in question is allowed by the Canon. It is, therefore, needless to add that he ought to do so anyway, even if the Canon did not grant him the right to do so. For in any case, we must obey God rather than men.. And to remarry the innocent party in a divorce for adultery would be to obey men rather than God, who has, as we now know, pronounced all remarriage after divorce to be adultery, and hence illicit.

274. More debatable is the question what to do about excommunicating those who have remarried after a divorce, or

have married a divorcee, or about those in the same position who desire to be baptized into the Church, or to be confirmed after having been baptized outside the Church. But the debate can extend only to the question of whether the discipline should be incorporated into a rigid Canon, or whether this sin should be handled, on its disciplinary side, the same way other sins are handled. In no case should there be left any possible ambiguity about the fact that any person or persons who are committing adultery in this form, and who do not have any sincere intention to desist from it forthwith, are not capable of receiving any Sacrament (whether it be the Holy Communion, or Baptism, or Confirmation, or even Absolution) worthily and profitably. Hence in no case should any priest be allowed to advise them that they are at liberty to receive any of these Sacraments, nor to administer the same to them, nor should the Canon presume to empower the Bishop to restore them to Communion, or to order their admission to Baptism or to Confirmation.

275. Of course this does not mean that there may not be many cases in which all of these Sacraments may be allowed to persons who have been married "by Civil Authority, or otherwise than as this Church provides". But in no case can anyone, even a Bishop, legitimately admit to the Sacraments anyone who is living, and intends to continue to live, in a state which Christ declared to be adultery. Perhaps the simplest way to accomplish this would be to add, in VII. (ii), after the words "to the petitioners by the Bishop, or by the Ecclesiastical Court acting through the Bishop", the words "as to whether the marriage is valid, judged by the immutable standards of the teaching of Christ. In case the judgment be in favor of its validity, a Minister of this Church may, in his discretion, bless the marriage." A somewhat similar amendment would be necessary to subsection 1 of Section VII. It could be accomplished by adding after the words "shall give his judgment in writing" the words "as to whether the marriage in question is valid or adulterous in the sight of God, judged by the immutable standards of the teaching of Christ." This subsection ought also to make it clear, as it does not at present, that the Bishop's "godly judgment thereupon" is not merely advisory, in case it is negative. On the other hand, it seems to me that, in case it is favorable, the individual priest ought to be explicitly re-

lieved from the necessity of administering any of the Sacraments to a person he believes to be an impenitent adulterer, just as he is already relieved of any obligation to solemnize any marriage. A priest ought to have at least as secure a right to obey Christ, *and all the fair implications of His teaching*, as a layman has to run the risk of disobeying Him in a doubtful case. And, since it is unrealistic to doubt that some "liberal" Bishops would give favorable judgments in cases in which it would be absolutely impossible for the priest to agree, or even to acquiesce, his liberty of conscience in the premises ought to be safeguarded. Some other priest whose conscience will permit him to do so, or the Bishop himself who gave the favorable judgment, could in that case administer the Sacrament or Sacraments in question to the victorious petitioner.

276. It might seem at first that this conclusion that remarried divorcees must be excluded from the Sacraments is unnecessarily harsh and rigid. Let it be said at once that it does not apply to any case in which the Church finds it possible to annul the first marriage which constitutes the diriment impediment to the second marriage that is the cause of the doubt whether the petitioners may be admitted to the Sacraments. But of course it goes without saying that in granting annulments, the authorities who act for the Church should act in a strictly conscientious manner, deciding the case strictly on its merits, and not using the perfectly sound principle of nullity to grant what are really divorces.

But apart from cases in which the first marriage can be annulled, the Church would be illogical and inconsistent if she taught that remarriage after divorce is adultery (as loyalty to Christ absolutely requires her to do) and at the same time allowed persons persisting in such remarriage to be communicants in good standing. For by so doing she would clearly imply one of these things: (1) that remarriage after divorce is not adultery; or (2) that adultery is not a grave sin; or (3) that it is possible to make a worthy (and hence profitable) Communion without repenting of a grave sin and sincerely purposing to desist from that sin in the future. Of course if we believe that it is a blessing to be allowed to make unworthy, sacrilegious Communions, we should by no means excommunicate such sin-

ners. But orthodox Churchmen do not hold so magical a view of the Sacraments. Hence, the conclusion is unavoidable.

277. It might seem at first sight that there is still left one possible avenue of escape from this conclusion. That would be to accept the argument of one who might say, "I know that Christ is held by the Church to have taught that remarriage after divorce is adultery. But, even after the most thorough and conscientious study of the question of which I am capable, I cannot believe that He really uttered the words on which this teaching rests; or that, if He did say those words, He meant what the Church thinks He meant; or that, if He really did mean it, He was right. Consequently, even if the course I am pursuing is objectively wrong, and hence 'materially sinful' as the moral theologians say, as is easily possible, since I well understand that I am a fallible human being, still I am at least sincere, and therefore 'invincibly ignorant'. Hence I am not guilty of what the moral theologians call 'formal sin', and that is the only kind of sin that is really sin at all, in such a sense as to make my Communion unworthy and sacrilegious. Hence I have no obligation to repent and amend, since I am convinced that what I am doing is not morally wrong."

To this it seems to me the Church must say, "By 'invincible ignorance' is meant blameless ignorance. The Church could admit your contention that your ignorance is blameless if she were one of the churches in the lower sense of that word, and one which teaches that the final authority is the private judgment of the individual. But she is a Catholic Church, a Church in the higher, supernatural sense of the word, and she does not teach that the private judgment of the individual is the highest court of appeal, though of course even for Catholics there is a proper and very important and even necessary place for the private judgment of the individual. Being a Catholic Church, the Episcopal Church teaches that 'the Church hath authority in controversies of Faith' (see Article XX), and, consequently, she cannot admit that the error of one who sins materially as a result of rejecting her teaching is due to 'invincible ignorance'. For, as explained above, 'invincible ignorance' means blameless ignorance, and the Church cannot admit that ignorance to be blameless which arises from rejecting her teaching. It may be

perfectly sincere. It may have survived the most earnest and diligent study of which the individual is capable. But it still cannot be blameless for one who is a member of the Church to err as a result of rejecting the teaching of the Church. You are in the same position as would be one who, in all sincerity, and after diligent study, came to the conclusion that fornication or homosexuality is not wrong. Obviously the Church could not allow such a person to remain a communicant in good standing, however sincere he might be, unless, at the very least, he consented to desist from the two sins named, even though he might still believe them to be morally licit. No more can she grant that status to you, as long as you insist on acting on the theory that the Church is wrong in her teaching about remarriage after divorce.

"In regard to persons who are not members of the Church, the case is different. The Church can admit that a person may be invincibly ignorant as to his objective obligation to join the Church and accept her teaching. If so, he could also be invincibly ignorant on some point on which his ethical conclusions diverge from the teaching of the Church. But for members of the Church, the Church can admit that their ignorance (as she must necessarily hold it to be) is sincere; but she cannot admit that it is blameless. And only if it were could it entirely exculpate the individual from 'formal sin'—i. e. from real, morally imputable sin, such as would make a Communion unworthy and sacrilegious."

278. I think, however, that we may and must make one exception to this general rule. Even those who are aware of the invalidation of the "exception-clause" by the assured results of modern scholarship, and who as a consequence would refuse absolutely to officiate at the remarriage of any divorced person, even the "innocent party" in a divorce for adultery, and would hold that even in the latter case the remarriage is objectively adulterous—even such priests and Bishops, I say, ought not to insist on excommunicating the parties to such a marriage (i. e. in the exceptional case at present allowed by our Canon). This conclusion, if correct, would not be because the pretended new marriage is any less adulterous than other remarriages after divorce. It is because, while it is objectively wrong and adulter-

ous, and hence "materially sinful" as the moral theologians say, it need not be "formal sin", due to invincible ignorance. In the case now under consideration the Church is at liberty to concede that the ignorance is really blameless. For it does not exist as a result of culpably rejecting her authoritative teaching, as it did in the case we examined and rejected above. It arises from accepting her teaching, or at least from assuming, as the laity have every right to do, that the Church will not sanction and even bless what is sinful. Hence their error is not their own fault, but the fault of the Episcopal Church herself, and so is blameless or "invincible". Being only a part of the Catholic Church, and making no claim to be the whole Church, the Episcopal Church is perfectly at liberty to admit that she has erred in such a manner. Of course she is under the strictest possible obligation to remedy her error now that it is demonstrably proven to be an error.

279. For a sharp criticism of substantially this same position, as taken by the present author in an article written some years ago, see Chapter IX, Sections 194-196. There also will be seen further defense of my position in reply to Dr. F. C. Grant's strictures at that point quoted. In view of the fact that I have there dealt with some of the objections that could be raised to the position recommended in this chapter, I see no need to repeat them here. Before closing this chapter, I wish to consider two or three further objections not already answered elsewhere in this book and frequently urged against the position here taken. The first objection may be stated as follows:

280. Why should the Church treat remarriage after divorce as the one unforgivable sin? Our Lord was more lenient with sins of the flesh than with spiritual sins. The Church will absolve and restore to Communion or to the other Sacraments even a murderer or an apostate, or any other sinner, even of the most grievous and loathsome sort, not excepting other forms of adultery. Why, then, make remarriage after divorce the one exception? Is that form of adultery worse than other forms, or than all other sins, just because a large section of the public considers it morally innocent? This seems completely illogical and inconsistent on the part of the Church.

Surely there is an amazing confusion of thought in this objection. It might truthfully be replied that the very thing the traditional position of the Western Church including Anglicanism refuses to do is to treat this case as an exception. The Church refuses to make this sin an exception to the *absolutely universal* rule that there must be repentance *and a sincere purpose and resolution to forsake the sin forever* before forgiveness is possible. For it is not the fact that the sin of adultery in the form of remarriage after divorce was *once committed*, but the fact that the adulterer refuses to abandon his adultery by giving up the adulterous "marriage", which is the basis for the Church's refusal to absolve and readmit to Communion. Let him only amend his ways from his adulterous course, or even sincerely resolve and promise to try to do so, and the Church will absolve him as gladly as she will anyone else. But as long as he refuses to amend she *cannot* absolve him. Even to attempt or pretend to do so would be a blasphemous sacrilege, and the pretended absolution null and void *in toto*. Of course the subsequent Communion would be also unworthy and sacrilegious, unless, of course, saved from this stigma by invincible ignorance.

281. But we shall be met at this point with the further objection, continuing the preceding one, that in some cases amendment is no longer possible. A situation has resulted from the pretended remarriage which makes it morally impossible for the husband to leave his new wife and children, even in a case where it would be possible to return to his first wife and children. Still less would it be right to leave his second wife, and the children by his second marriage, when there is not even the chance to do the first wife and family any good by returning to them, because the latter are unable or unwilling or unfit to receive him. Besides, the case is still more cogent when it is the woman who is divorced, and to leave her second husband would mean not only that the children by the second "marriage" would be in effect orphans, but also that they would be left without means of support.

I must maintain, however, that, despite the present widespread contempt for logic and consistency, we must be logical and consistent, even at such a cost. For to refuse to be so is to

choose deliberately to be unprincipled. To persevere in such a marriage would be, in fact, not merely to choose to sin through weakness upon particular occasions but to choose to adopt and abide in a permanently adulterous and therefore sinful course. For our Lord said that to take to oneself a divorced woman for a wife is to commit adultery. Now surely no one would give the woman in the case we are considering permission to commit adultery with some third man to whom she did not even claim to be married as a means of earning a living for her children, or to become a prostitute for that same purpose. If, then, those who would refuse her permission to do either of these things are inclined to give her permission to commit adultery by living as wife with the man the civil law calls her husband as a means to support her children, it can mean only one thing. That thing is that, however much they may protest the contrary (and even sincerely fool themselves into thinking the contrary) they have never really accepted Christ's teaching that to remarry after divorce, or to marry a divorcee, is to commit adultery.

Surely such theologians would not authorize her to commit adultery with the very same man if she had been unable to secure a *legal* divorce from her first husband and if the latter refused to support her legitimate children; or if she had (in the eyes of the civil law) *illegitimate* children by the second man, and had no other way to support them. To allow the civil divorce and the civil legitimacy of the self-same children to make any essential difference to the case is to set aside completely our Lord's command "Those whom God has joined together let no man put asunder," and to treat legitimacy in the eyes of men as more important than legitimacy in the sight of God.

282. Nor will it provide an avenue of escape from this regrettably necessary conclusion to urge that in such a case the woman has to choose between the two evils, between committing adultery on the one hand and breaking up her new family and perhaps letting the children starve on the other, and that she may without sin choose the lesser of those two evils. If the starving of the children were a positive act which the woman had either to commit or else as an alternative com-

mit adultery, and if no third sinless course were available, the argument would then merit consideration. But in this case all that we have is a refusal to commit adultery in order to prevent the starving of the children, which is only a physical evil and not therefore a sin unless some moral way exists to avert it. To hold we may commit the mortal sin of adultery as a means to avert some physical evil such as starvation or economic hardship, either to ourselves or others, is to hold that a good end can justify an originally immoral means. No reputable theologian, Catholic or Protestant, defends that moral monstrosity.

283. The second objection I shall consider is that the course here advocated will lead to more and worse sins than the toleration of the continuation of the remarriage after divorce, at least in some cases; and that consequently it would be morally sound to allow the adulterous second "marriage" to stand as the lesser of two evils, at least in the case of a man (or woman) who had tried for a protracted period to live continently after being divorced, and had found this beyond his power to achieve.

This seems to me very amateurish ethics, though I have actually heard substantially this argument from the lips of learned seminary teachers. The flaw in it is two-fold. The first and lesser flaw is that, because the kind of adultery involved in remarriage after divorce is more "respectable" in the eyes of most Protestant Americans than other kinds of adultery, therefore it is less evil than those other kinds. This cannot be admitted. If anything, it is for that very reason worse. For the Church must condemn sins which are denied by some to be sins even more vigorously than she condemns sins admitted by all to be sins.

But far and away the greatest flaw in the objection we are now considering is that it treats isolated, even if frequent, lapses into adultery or fornication or some other form of incontinence as if they were as grave as the adoption of a permanent and unvarying course of deliberately committing adultery in a "respectable" manner for fear that if one does not adopt that course one will from time to time, in moments of weakness, fall into the same sin in a form that is not respectable. No competent ethicist or moral theologian will grant that proposition for a moment. In the former case, repentance between lapses is possible, and the ultimate recovery of continence is

always at least a possibility. But in the latter case, repentance is impossible except by either separating from the alleged spouse by the pretended second "marriage" or else by the two spouses agreeing to live "as brother and sister" in a case where the presence of children or other grave reasons makes so difficult a situation seem preferable to separation. But if separation is to be the alternative, the original problem of the difficulty of continence for a person who has once been married at once recurs. So nothing permanent has been gained, and it is possible that great harm may have been done, such as unspeakable heart-pangs to the spouse who had not been divorced, and also the possible begetting of children who would suffer many of the disadvantages of orphanhood as a result of the separation. The spouse who had never been divorced may also in this way be prevented or impeded from contracting a true marriage with someone really entitled to marry her.

On the other hand, if the alternative of living "as brother and sister" is to be the solution, this is likely to make the problem of continence even more difficult for the previously married spouse than if there had been no pretended second "marriage". As to the spouse who had not been previously married, it imposes upon her an entirely unfair and unnecessary burden of perpetual continence—unnecessary, that is, because by marrying a bachelor or a widower she could have had a normal married life without incurring any obligation so difficult and (where it can be avoided) so undesirable.

Only, then, if we could justify the remarriage morally, in such a way as to make repentance unnecessary, would we get anywhere in our efforts to solve for the incontinent divorcee the difficult problem his divorce has presented to him. And that can be done only by rejecting the teaching of Christ. For if we accept the teaching of Christ, it is impossible to uphold the contention that the species of deliberate and continuous adultery involved in remarriage is a lesser evil than the occasional incontinence that may—but *need not*—result from remaining unmarried. This is true even if we leave out of consideration the possibility of reconciliation to the true spouse, or the possibility of achieving continence outside a functioning marriage.

284. Even if we take the case in which the divorcee is not willing to make an earnest and sincere effort to achieve continence outside marriage, and in which consequently we cannot safely suppose any sincere repentance in between lapses, it is still morally superior to keep him in that spiritual state rather than to advise adultery in the form of remarriage as the lesser of two evils. For, first of all, repentance (if he ever can be brought to that frame of mind) will encounter less obstacles if he has not remarried, as developed when considering the alternative form of the case. Then, secondly, repentance is more likely to occur if the guilty divorcee has been pursuing a course which he and all his friends and associates know to be gravely sinful than if he has been doing something which many will try to persuade him is not sinful. Thirdly and finally, it is not possible to make an argument about "the lesser of two evils" stand up unless the evil one is seeking to justify by the argument is not only the lesser of the two, but the least of all possible evils. So if there is an alternative possibility which is not morally evil at all, or even one which is less evil than the evil one is seeking to justify by the argument, then the argument falls to the ground. It will do no good to plead that the person is unwilling to follow the course that is morally innocent (or is the least evil of all, in a case where all possible courses are evil in some degree) and that the evil course one is attempting to justify is the least evil of those which the person is willing to contemplate adopting. Only if all possible courses are morally evil in themselves, and the one chosen is the least evil of them all (morally speaking) is the course sinless.

285. The third and last objection I shall consider is that the position advocated in the first part of this chapter imposes upon divorced persons a burden which it is beyond the power of human flesh to bear, save in exceptional cases. Even our Lord Himself, and also St. Paul, can be quoted as recognizing that not all men have the gift of continence. This objection, though similar to the preceding objection in many ways, differs from it in that, if it were valid, it would not defend remarriage by maintaining that it is the least evil of all possible courses available, but by maintaining that the standard taught by Christ on this subject is wrong, because it demands the impossible, and no teaching that demands the impossible can be true.

286. My reply to this objection is that it proves too much. If continence is impossible, except for special individuals, then the whole of Christian sex ethics is wrong. I do not believe that to be the case. But the recommendations of Chapter XIII are not aimed primarily at people who deny the Deity of Christ, or who believe that rejection of His teaching is compatible with the recognition of His Deity. Those are perfectly legitimate fields of challenge for non-churchmen. But they fall outside the scope of this book to deal with at any length; and in particular the recommendations of Chapter XIII are primarily for Episcopalians. So I am assuming the validity of Christian sex ethics at least in general, for the purpose of the present chapter, and I am assuming consequently that any position which requires the conclusion that it is invalid stands condemned, at least for serious professing Episcopalians, who are the only ones that I have any hope of persuading to adopt the course recommended in the first part of this chapter. I do not mean that, at the proper time and place, these other and broader challenges cannot and should not be successfully met. I mean only that this is not the proper time or place.

287. If the objection be restated to maintain not that continence is normally impossible, but only that it is impossible for a man or woman who has once been married and acquired quite blamelessly the habits incidental to married life, I reply that the argument even in this amended form still proves too much. For there will frequently arise situations in which a married man or woman must be continent for prolonged periods, altogether apart from cases produced by divorce. In some of these cases, it is necessary while still living in the same house and perhaps even the same room with one's wife. If continence is possible even under such trying circumstances, it certainly ought to be possible for the divorced.

288. I have no idea of denying that continence is, for the normally sexed person, quite difficult, and for the over-sexed person exceedingly difficult. I have heard enough confessions to know that very many fail to attain it, though not nearly so large a percentage as some books on the subject would lead one to expect. I know that in many of these cases of failure, the sincere penitent will say that he has tried long and sincerely

and hard, and has found it impossible. None of this, except the last word, would invalidate the Christian position. And it is just that last word, "impossible", that I believe to be unjustified. For it implies that their failure is not their own fault. And this I do not believe. I believe that when our Lord said what He did on the subject that all He meant was that the person who has not the gift of continence has no right to demand it from God while lawful marriage is before Him as an alternative possibility. But if he finds himself in a situation where he has no moral alternative except to be continent, then God will give him the special grace necessary to make continence possible; so that, if he fails to attain it under such circumstances, it is his own most grievous fault. Many do not use the grace of God to the very best of their ability, and so fail. But that does not prove that the grace of God is not sufficient, nor does it prove that Christianity is mistaken in teaching that God's will requires what Christian sex ethics demands. My confessional experience shows even greater failure in regard to selfishness than in regard to impurity. But I have never heard anyone argue from this that Christ's requirement of unselfishness is false teaching.

EPILOGUE

289. There are many aspects and problems of the subject of marriage and divorce that I have made no effort to cover in this book. That does not imply that I am unaware of their real and very great importance. Many of them have a direct and considerable bearing on the task of producing a perfect marriage canon.

For example a question that is open to at least some possibility of doubt is whether all marriages whatsoever are indissoluble, or only Christian marriages. A few years ago the present writer was hopeful that it might be possible to accept the conclusion that only Christian marriages are indissoluble. At present, further study has made me extremely doubtful whether this position can be upheld successfully at the bar of reason, history, and theology. But I am fully aware that my own fluctuations of opinion on such a point settle nothing. The entire subject ought to receive careful, detailed, and thorough study by a Commission of expert theologians, canonists, and historians. For it is clear that if we could arrive at the conclusion suggested it would make it possible to justify a much more "liberal" canon concerning divorce than can possibly be justified if all marriages whatsoever are indissoluble.

Of course it goes without saying that such a conclusion, if it emerges at all, ought to emerge as a result of thorough and conscientious study of all the issues involved, and not as a result of an inexorable determination to find some way to justify "liberal" changes in the canon. In the latter case, we would simply be playing with God's truth, and with His sacred trust. But if the conclusion were to emerge as a result of sincere and objective study and thought, then we would have found a way to "liberalize" our canon conscientiously, and without betraying the sacred trust God has committed to us. That would be a consummation devoutly to be desired!

290. It is not even impossible that something further and even more far-reaching along the same lines might be possible

as a result of restudying the definition of *Christian* marriage, if the proposition just considered had first proved acceptable. At present, it is usually held that any marriage between baptized persons is a Christian marriage. But if we could conclude, as a result of careful and objective study, that some element of intention ought to enter into the definition, or some element of understanding what the teaching of Christ demands in regard to marriage, especially in regard to indissolubility, it might be possible to conclude that some marriages which would be Christian under the present definition would not be Christian marriages at all under a more adequate and more accurate definition. That has real possibilities for a "liberalization" of our canon.

291. Once again, there is the Roman Catholic doctrine that a marriage which has been duly contracted, but has never been consummated, (called *matrimonium ratum sed non consummatum*) is subject to dissolution. It is held to be subject not only to annulment, if any diriment impediment is found to exist, but also to dissolution; that is, to divorce. It is true that this will not take care of many "hard cases". But it will take care of a few, and those few are entitled to take advantage of it, if it is sound and true. Therefore its truth ought to be investigated. It might be found to depend on such a maximizing theory of the authority of the Pope, as in a special sense the Vicar of Christ, that non-Papal Catholics could not accept it. But it might also be found to rest on an authority that belongs to the Pope *as a Bishop* rather than as the alleged Supreme Head of the Church. If so, we might be able to accept and use it. At least the point ought to be investigated, and decided authoritatively by the Episcopal Church for the guidance of her Bishops and Marital Courts in such rare but by no means non-existent cases.

292. The question of the possibility of dissolving a marriage before consummation in order to allow one of the parties to enter the religious life should also be investigated. It is quite possible that nothing affirmative would come of such an investigation. And certainly not many marriages would be affected. But if even a few would be helped, it ought to be done.

293. The whole subject of annulments, and (what is, in effect, just a different aspect of the same subject) of the table of impediments, ought to be thoroughly studied anew. The present writer would like to make several suggestions in this connection. For one thing, we ought to have two lists: one of "diriment impediments", i. e. of impediments which not only cause the Church to prohibit such marriages, but to consider them absolutely null and utterly void if they take place in the face of her prohibition; and another of "prohibitory impediments" which lead the Church to think such marriages highly undesirable, and therefore to prohibit them, without having to declare them null and void if they nevertheless are contracted despite her prohibition. Some might think at first sight that impediments of this second class are undesirable. But if we are to be loyal to the teaching of Christ and allow no remarriages after divorces from marriages which that teaching forces us to hold to be indissoluble, it becomes especially important to try to prevent from taking place not only marriages which the Church can under no circumstances recognize as true and valid marriages at all, but also those which take place under such circumstances as to make a failure of the marriage likely, even though the impediment is not grave enough to force the Church to refuse to recognize the marriage if, despite her stern disapproval, it is contracted anyway.

294. In this connection, the Church ought to face, study, and then rule on the question as to whether the Bishop has any dispensing power in regard to either list of impediments, and if so just what are the limits of that dispensing power. It is possible that it might be found to cover the whole list of "prohibitory impediments", and it might even extend to some points in the list of diriment impediments.

295. Still another suggestion is that the Church might subdivide the list of diriment impediments into those that are generally agreed to be diriment, and those that some might think to be a valid ground for an annulment, while others might not be able to assent to these added grounds. If this suggestion were followed, the first list should be made mandatory, and the second list permissive. By that I mean that the Bishop would be obliged by the canon to grant an annulment if he

found an impediment of the first class to have been sufficiently established by the evidence submitted to him or to his court; while if he found an impediment of the second class, he would be permitted to give an annulment IF he conscientiously held the impediment in question to be a valid ground for an annulment, while on the other hand, he would be at liberty to refuse to grant an annulment if he conscientiously did not believe that impediment to be a valid ground for an annulment.

Of course, if this suggestion were to be followed, a Bishop or Court ought to be required by the canon to be consistent. That is, if the impediment were made the ground for an annulment in one case, it should be treated similarly in all parallel cases; and no future marriages should be allowed to be contracted with that impediment present. (In fact, that last test of sincerity ought to be applied in every case. No Bishop or Court should ever grant an annulment for any ground which would not motivate them to refuse to perform a marriage in which the same impediment was known to exist. Unless impediments are treated as bars to *desired* marriages as well as ways out of marriages that are no longer desired, they are not in truth impediments at all, but pretexts for back door divorces.) But of course room would have to be allowed for a sincere change of opinion on any such disputable point, in the light of increased knowledge or thought, by either the Bishop or his Court.

296. If this last suggestion of two lists of diriment impediments were to be followed, it might well be possible to include in the second list of permissive diriment impediments most if not all of the grounds allowed in the late lamented Canon proposed to the 1943 General Convention by Bishop Davis' Commission. To be sure, it would take a considerable development of the doctrine of impediments and annulments to justify some of these. But that does not necessarily condemn the suggestion. There are such things as legitimate developments, as well as illegitimate ones. And the doctrine of impediments and annulments has already undergone very considerable development since the time of Christ. Further development is not to be excluded *a priori*. For myself, while I am not willing to commit myself on specific points in the list proposed by the Commis-

sion, I am inclined, in my present state of knowledge, to believe that most of these proposed impediments could legitimately be included, at least in a second and permissive list of diriment impediments. That would avoid forcing the consciences of those who are not convinced of their validity. On the other hand, it would effect a considerable "liberalization" of the Canon in its practical effect.

If this is going to be done, however, it ought to be made unambiguously clear:

(1) That these are grounds of annulment, and not of divorce; and

(2) That, consequently, they are (where they can be ascertained to exist) bars to desired marriages as well as ways out of "marriages" no longer desired; and also

(3) That they are sufficient, either to bar a desired marriage, or to justify the annulment of a "marriage" once supposedly contracted, only when they exist in such a degree as to make *impossible* (and not just *difficult*—in the latter case, they would be a proper subject for prohibitory impediments, but not for diriment impediments) the *minimum essentials* of a *valid* marriage (and not an *ideal* marriage); and finally

(4) That they must have existed, in something more than pure potentiality, at the time the marriage was contracted, and not be of later origin. If they were, they could not affect the validity of the marriage. And in cases of the psychological sort, as most of these were, it seems to me that in case of doubt the doubt ought to be resolved against the annulment, and in favor of validity, to prevent scandalous laxity.

297. I am, of course, fully aware that many people, including one very high in the ranks of those in whose hands the future legislation of our Church probably stands, are skeptical about the whole idea of annulments, and consider them to be little if any more than back door divorces, that have all the defects of admitted divorces, and lack in addition the virtue of frankness and of honesty. Despite the great names that could be quoted in favor of this attitude, I cannot consider it anything but an exhibition of inadequate instruction. It is true, of course, that the theory and practice of annulment have both been

scandalously abused, and not only (though no doubt chiefly) in the Roman Catholic Church; but *abusus non abruptus*. It is also true that, especially in our own Church, they are all too often treated as back door divorces, rather than true impediments resulting in *bona fide* annulments. This is true wherever the list of impediments is taken more seriously in ascertaining the right to an annulment, with the right of "remarriage," of the parties to a marriage that has "failed" than in ascertaining whether a couple who wish to marry have the right to do so. Some clergy who are quick to use the list to get someone an annulment never think of ascertaining carefully whether any of these impediments exists before consenting to officiate at a marriage.

But when all this has been admitted, it still seems to me that both logic and practical common sense approve the ideas of diriment impediment, and resulting nullity, with a decisiveness that is absolute and irreversible. For example, if a prior valid marriage is a diriment impediment to a second marriage while both parties still live (and of course it *is* if the second "marriage" is really adultery) then no such second "marriage" can be recognized as valid. Consequently, when one is entered upon anyway, in defiance of the law of God, the Church has no alternative, unless she is willing to declare war on the laws of reason, except to treat the marriage as null and void. Hence a woman who "remarries" after a divorce, and then is again divorced before the first husband dies, can later *validly* remarry after the first husband dies. The man who in the eyes of the civil law was once her second husband, was never such in the eyes of God and His Church. Consequently, that second "marriage" constitutes no impediment to a subsequent valid marriage, after the death of the real husband, any more than adultery of a different kind, or fornication, constitutes such an impediment. Example after example could be given to show that by the correct practice based on the doctrine of diriment impediments and annulments the Church is not playing fast and loose with her doctrine concerning marriage and divorce, but rather is reenforcing it. And the laws of reason are not really to be condemned, even if some do seem to think that they can secure that right by calling them "logic".

298. In closing, I wish to give my opinion why the hard and conscientious work of our Commission on Marriage and Divorce has not borne more fruit. It is because (whether by accident or by design I do not pretend to be sure) it has been far too largely a packed Commission. The number of "liberals" on it has been out of all proportion to their strength in the Church, at least until 1940. I think it still is out of all proportion, at least as far as concerns the clergy. And if that is true of the Commission as a whole, it is ten times truer of the matter of scholarship on the Commission. The Commission has had one or more outstanding "liberal" scholars of the highest rank among its members, or among its consultants, at all times. But there has been no Anglo-Catholic or "illiberal" Evangelical scholar on it, or in close consultation with it, as far as I know. I had better explain that in this paragraph I am using the word "liberal" with exclusive reference to his views on the crucial issue—whether Christ taught the indissolubility of marriage—and not other issues. On the whole, the Anglo-Catholics, the southern Churchmen, and "middle-of-the-road" Churchmen have been in favor of strict divorce laws, and at least until 1940 always had a good majority of the clergy in General Convention. But they had a very small minority on the Commission. In addition, the Anglo-Catholic representation has often been "Liberal Catholic" so that the proper proportionate representation of the strict viewpoint has been still further abridged.

In the name of fairness, as well as in the name of balanced scholarship, this condition ought to be remedied without further delay. And more scholarship ought to be added. The Commission should include at least one specialist in New Testament, Dogma, Moral Theology, Church History, and Canon Law, and preferably one of each viewpoint. Time and again I have seen some alleged result of scholarship used as a sort of bludgeon to force into submission some adherent of the teaching of Christ on the Commission who had not the scholarship to refute the easily refutable arguments with which the alleged result was "proved". I do not blame such a priest or Bishop for lacking the requisite scholarship. It is simply impossible for anybody short of a four-star genius to do his duty to a large parish or diocese, and still have time to keep abreast of scholarship, let alone cross swords with scholars like Drs. Easton or Grant. But

that only makes it all the more obligatory, in the name of justice, and in the name of the most secure road to truth, that *both* viewpoints—the strict and the “liberal”—should be *adequately* represented, and not only by men of equal eminence in the ecclesiastical world, but also by their best available scholarship. The strict side ought to have a fair proportion not only of eminent Bishops and parish priests, but also of specialists in New Testament, Church History, Dogmatic Theology, Moral Theology, and Canon Law.

299. Such a reformation in the membership of the present Commission is necessary, as shown by the alleged and uncontradicted fact that none of its members objected at General Convention in October, 1943, when the hideous Phister Canon was accepted without debate and without vote in the House of Deputies as a substitute for the Commission's Canon by the spokesman for the Commission in that House. Yet I stand ready to prove up to the hilt, against all comers, that the Phister Canon was a totally different canon from that proposed by the Commission, for which the present writer would have been inclined to vote, had he been a delegate, not because he was at all satisfied with it, but as very likely being the lesser of two evils, as compared with our present Canon, in view of the unduly pessimistic interpretation which I at that time felt obliged to put upon the present Canon. For my reasons for coming, at present, to a more optimistic conclusion regarding the true interpretation of that Canon, see Appendix C.

300. If any changes in our Canon in a “liberal” direction are to be made at all, it seems obvious to me that they ought to be made on definite and assignable principle or principles, and that these principles ought not to be principles which stand in direct and demonstrable opposition to the few points on which our Lord and Saviour, Jesus Christ, has explicitly ruled. There are many points involved on which He has not ruled. If we are to make any “liberalizing” departures at all, they should be made as a result of revised conclusions on one or more of these points. I would, of course, regret to see any such changes made, even on one of these points, on the basis of a ruling by the Church which I did not believe to be correct. But it would be far better to base a change on such a doubtful

and possibly mistaken ruling than to base a change on a principle that clashes head-on with the clear and explicit teaching of Christ.

There is an amusing little story of an episode (no doubt apocryphal) supposed to have occurred at the end of the Infamy of Munich. According to this story, Hitler said to the British premier, "Mr. Prime Minister, this occasion has been so profitable and so delightful that I would like very much to have a little memento of it. Would you be so kind as to give me one?" Mr. Chamberlain readily assented, and asked, "What would you like, Herr Chancellor?" After a moment's reflection, Der Fuehrer said, "I believe I would like to have that umbrella you habitually carry. It would remind me of you personally, as well as of this most happy occasion." To which Mr. Chamberlain, not a little taken aback, replied, "Oh, ah! er— No, I'm afraid I cannot give you the umbrella. Er, you see—er, it's *mine*."

As said above, the story is no doubt highly legendary. But it does have at least a historical nucleus. Mr. Chamberlain, arch conservative that he was, had found it possible to be very "liberal" with the territory of Czechoslovakia. It is very easy to be "liberal" with the possessions of others. It is *very* easy, but it is neither virtuous nor admirable nor indeed *truly* liberal. And the teaching of Jesus Christ, not excepting His teaching against all remarriage after divorce, is not *our* property, held in full sovereignty to dispose of as *we* wish. It is a solemn stewardship, a gravely responsible and sacred trust, committed to the "ministers of Apostolic Succession" for faithful preservation and transmission down all the ages, "till He comes". And He did not say, "Heaven and earth shall pass away, and My words shall be revised from time to time by majority vote." With the sacred trust of the Deposit of Faith, committed to us in words that "shall not pass away", and which this book has I believe shown conclusively to include the doctrine of the indissolubility of marriage, we have no right to—WE DARE NOT—be "liberal".

Appendix A

BISHOP GORE ON OUR LORD'S TEACHING AS LEGISLATION

301. It was natural for Gore to take this view of our Lord's teaching on divorce in the days when he held the "exception-clause" to be a genuine saying of the historical Jesus, and to govern the interpretation of the (on that hypothesis) less precisely expressed teaching elsewhere. For while the indissolubility of marriage can stand without being a law, in the sense rejected in the main text, the proposition that remarriage is licit in one and only one case is much harder (it is I think impossible) to defend on any other basis except that it is Divine legislation, since it implicitly denies the real indissolubility of marriage, and then arbitrarily (from the standpoint of the logic of dissolubility or indissolubility) limits the right of remarriage to the innocent party in a divorce for adultery. Clearly, if the innocent party is no longer married to the guilty (and only on that premise, or else the premise that polygamy is permissible), can the remarriage of the innocent party be allowable) then too obviously to admit of dispute the guilty party is no longer married to the innocent party, either. Consequently, if remarriage is under these circumstances forbidden to the guilty, it cannot be because of the indissolubility of marriage, but only as a penalty. Thus the position taken by Gore at that early date necessitated the view that our Lord's teaching on divorce was legislation.

302. But when, in line with the results of biblical criticism, Gore came to see that the "exception-clause" was not a genuine utterance of the historical Jesus, and that the indissolubility of marriage was consequently our Lord's true teaching, it may have escaped his attention that this new result removed the necessity of holding our Lord's teaching to be legislation.

Or it may be that by calling the teaching of our Lord on this subject legislation, he meant no more than to assert that it was in the strict sense binding, at its face value, and with all its fair implications, and not justly parallel in this respect to such sayings as, "When ye pray, go into your closet and close the door" which were never intended to be taken as rules of conduct binding in all cases, regardless of whether or not they embody, in the particular case, the underlying principle which they were intended to effectuate, such as, in the case of the precept quoted just above, "Take heed that ye do not your 'righteousness' (i. e., prayers, alms, and fasting) before men TO BE SEEN OF THEM, otherwise ye have no reward with your Father which is in heaven." If that is all Bishop Gore meant, we can heartily agree with him. But in that case, the term "legislation" is confusing, if not definitely misleading. For while the fact that our Lord taught the indissolubility of marriage guarantees, for those who accept Him as God, the truth of that doctrine, it is not what *made it true*. Hence, it is not legislation, in the sense of, "positive" law.

Appendix B.

THE BEARING OF OUR LORD'S ESCHATOLOGICAL VIEWS

303. The fourth theory referred to above in Chapter VI which Bishop Kirk considers is that our Lord, due to His expectation of His own early return, demanded of His disciples, for the brief intervening period, an extreme asceticism, and elaborated an *interimsethik* (as the Germans call it) which heroic resolution might make possible for a few years, but which would never do as a permanent and enduring system of ethics for a world lasting thousands of years.

304. In reply, Dr. Kirk thinks that the "apocalyptic theory" about our Lord has waned in popularity, and justly so. But even apart from that general trend, the theory, as applied to His ethical teaching, labors under the insuperable difficulty that the most extremely ascetic of our Lord's logia are nowhere found in connection with His eschatological discourses, and that the same outlook in contemporary Judaism is wholly free from ascetic interests. He denies that we have any reason to infer any "interior nexus" between the two facts, even if they be conceded to be facts, that our Lord taught the immediate coming of the Kingdom, and also demanded an ascetic life of His disciples. Says Kirk, "He taught the former because it seemed true to Him; He demanded the latter because it seemed right."

305. To this the present writer would like to add a few words of his own. If our Lord expected the Parousia within the generation then living, and the evidence seems to indicate that He did (unless "gotten rid of" by a-critical methods which orthodox apologists rightly condemn when resorted to to "get rid" of evidence that tells in the orthodox direction) this expectation was not a part of His authoritative teaching, but

belonged to that great multitude of matters on which He thought purely and simply *as a man*, and which He did not for an instant believe Himself to have by revelation or inspiration "from God". We can be reasonably certain that there would have been a clear and sharp distinction in His human mind between the things which He "taught with authority, and not as their scribes" and a thousand other matters on which He was under no delusion that He possessed Divine knowledge. His avowed ignorance of the precise day and hour of the Parousia, while not in my judgment incompatible with His having purely human anticipations of an early end of the world, certainly favors the view that He did not even *think* that He *knew* anything about this point with Divine certainty.

We can see how He came to have such an anticipation. He *knew* with absolute certainty, "from God", that He was the Messiah, and that it was a major function of the Messiah to usher in the Kingdom. In fact, He *knew* that the Kingdom was already "proleptically present"—in a mere foretaste, so to speak—in His own Person, and that the powers of the Kingdom were already at work, not only in Himself, but also in some of His disciples, to whom the powers had flowed out, so to speak, from Himself as a source. The Kingdom was thus not only "at hand", it was already "in your midst". And the Parousia was, by definition, the last stage or step in the coming of the Kingdom. Hence the expectation that it, too, was not far away seems natural and logical.

306. Yet it would have been only a matter, for Him, of natural human anticipation, not of "dogmatic certainty", not of His "*ex cathedra* teaching". For He definitely avows that He does not know the exact day and hour of the Parousia, and He shows no signs of having, or even of having thought that He had, any detailed or very precise knowledge of the precise stages or steps by which the advent of the Kingdom would be marked. He did, apparently, hold that the gentiles must first be evangelized; but He may have anticipated that this could be done within a generation. Yet this again could scarcely have been more than ordinary human anticipation, springing, no doubt, from points that were a part of His *ex cathedra* teaching but not itself such a part.

307. This seems to me to be a matter of crucial importance. For while I am convinced that we have no sufficient grounds to posit, *a priori*, His infallibility *sans phrase*, and for all realms of human knowledge or opinion, and the actual historical evidence seems very difficult for such an assumption, yet it seems to me absolutely unthinkable, *a priori*, that, if He was what the the Christian Creeds claim for Him (and it is worse than a waste of time from the purely practical viewpoint to argue His divorce teaching with those who do not admit even that much about Him) His authoritative, *ex cathedra* teaching should have contained any material error. This judgment is frankly *a priori*, rather than properly historical. But I am not aware of anything in the historical evidence which, after being critically assessed, conflicts with its truth.

Moreover, the *a priori* method of argument, which despite much modern disparagement I hold to be in principle sound and valid if cautiously and properly applied, is certainly much stronger and more secure when restricted to His authoritative teaching than when asserted in the unrestricted and unqualified form that none of His human opinions, or at least none of His actual sayings, could possibly be erroneous. In the latter case, the presumed reason would have to be the incompatibility of such error with a true Incarnation of God in His Person. But in the case I believe to be *a priori* safe, it is rather that God in heaven, un-Incarnate, would not allow His Messiah to err in His actual teaching, just precisely because, among other things, finality was of the very essence of the idea of a Messiah.

This conclusion seems to me to be very strongly confirmed by the (at first sight) surprising fact that many of the great Scholastics, who were masters of the *a priori* method, and who did not feel themselves under any pressure from the historical facts (*mirabile dictu*), first of all denied that in actual fact our Lord had erred on any point whatsoever, however purely human and remote from His teaching it might have been, and then went on to admit that as an abstract question it was perfectly possible *a priori* that He could have so erred (in other words that there would have been nothing essentially incompatible in such an error with His having truly been God-Incarnate) while denying unanimously that it would have been *a priori* possible for Him to have erred in His authoritative teaching.

308. It is true that in Mark 13 our Lord is reported to have connected His anticipation of an early Parousia with the authoritative, "Verily, I say unto you." (Mk. 13:30) And in the following verse comes the still more solemn and dogmatic, "Heaven and earth shall pass away, but my words shall not pass away." But in the verse immediately following comes His explicit disclaimer of any knowledge of the day and hour of the end. So even if He uttered these words, and in this very order, and in this precise context, it seems fair to conclude that it was rather the imminence of the Kingdom than the stages by which it would come or the distance away of the final stage about which He believed Himself to have dogmatic certitude "from God".

And on the point of the imminence of the Kingdom there is no sufficient reason to conclude that He was deluded. If the Kingdom did not come in the precise form in which, through the medium of the apocalyptic tradition and imagery, His human mind had been led or allowed by God to conceive it (and we are not at all sure how far He may have spiritualized that imagery) at least it did come, in a different form, in very considerable part if not in its entirety. The Last Supper, the Resurrection, the Glorification, the Ascension, Pentecost, and the establishment of the Mystical Body of Christ constitute a very real fulfillment of His teaching that the Kingdom was already present in foretaste, and was soon to come much more fully; even if, as is quite possible, He humanly anticipated something much more nearly resembling the literal fulfillment of the apocalyptic imagery, and an even fuller coming of the Kingdom than actually took place at that time.

In other words, what He had been divinely inspired to believe, predict, and *teach* did in its essential substance actually come to pass, even if it did not come to pass in the precise form and manner in which He, in His human mind, *anticipated*, and even if the final stage or stages is still outstanding. And who shall be bold enough to say that what actually came to pass was less than what He may have anticipated rather than more?

309. Besides, it cannot be repeated too often that we are in no position, historically speaking, to dogmatize about how much or how little He may have, in His human anticipations, spirit-

ualized the substance represented in the apocalyptic imagery He saw fit to use. This is not to suggest that the Resurrection, Glorification, Ascension, Pentecost, and the establishment of the Mystical Body of Christ is "just exactly what He had in mind" when He preached the imminence of the Kingdom. It is rather to suggest that His heavenly Father used (perhaps had to use) some kind of analogical language or human imagery to mediate to His human mind the tremendous transcendental truths it was His task to proclaim, and may have enabled Him, by spiritualizing very highly the imagery of the great apocalyptic tradition, which was *de facto* the concrete imagery chosen, to come much closer to the real essence and substance of the truth about the Kingdom He was sent to usher in than we might think if we forget that we are not at all sure that He interpreted all this imagery literally.

310. Thus, if the distinction is valid between things which He taught authoritatively because He believed Himself (rightly, of course I hold) to *know* them "from God" and other things which only "flesh and blood" had revealed to Him and not "His Father which is in heaven", then it seems fair to assign to the former class only the fact that the Kingdom was in the strictest sense imminent, and was to be something great and wonderful beyond the capacity of human language fully to describe, and was to come by stages; and to the latter class any purely human anticipations as to just how soon it would come, or in just what precise detailed form, or by just what stages, or just how long would be the time consumed by any of these stages. I think that our Lord lacked, *and knew Himself to lack*, any divinely revealed knowledge on all these latter points, and therefore did not give anything that can fairly be called teaching on any of them; though He did have unauthoritative human anticipations and conceptions on these points, and at times may have given expression to them. These last would have been the source of the early Christian expectation of an early Parousia, which would thus have arisen not, as has been supposed by some, from a misunderstanding of what our Lord had actually said, but from failing to draw a distinction between His authoritative *ex cathedra* teaching and the great body of His merely human opinions and anticipations.

311. Such a reconstruction avoids the necessity of "getting rid" of any evidence which is free from valid objections of a *bona fide* critical character. At the same time it preserves intact the authority of our Lord as a teacher. If a large number of critics are right in holding Mark 13 to be composite, and to contain much that does not actually proceed from the historical Jesus, and much that is genuine but out of its true historical context, we would have even less reason for believing that He dogmatically held and taught the imminence of His own second coming.

312. I have dealt with this subject at such length because it is the point on which it is most plausible to accuse our Lord of having erred—not merely in His unauthoritative human opinions, but—in His authoritative teaching. If this case breaks down, or is at least quite indecisive, it leaves intact the very strong *a priori* reasons we have for holding that, if Jesus is truly God, His authoritative *teaching*, in its entirety, must be true and completely reliable; and that His heavenly Father, if He condescended to permit the Second Person of the Blessed Trinity to become Incarnate under conditions that left Him fallible in His ordinary everyday opinions and anticipations, could and would find ways and means at least to prevent such limitations from leading Him astray in, or vitiating, His authoritative teaching. If so, the objection to His divorce teaching, based on His expectation of an early Parousia, is invalid.

313. I shall, in view of the great importance of the issue, buttress this conclusion still further by pointing out that, in addition to the point quoted above from Bishop Kirk (that our Lord's most ascetic teachings are not as a general proposition connected by any logical nexus with His expectation of an early Parousia), in the particular case of His divorce teaching it is *specifically disconnected* from any such expectation by being taught, not as something possible because the remaining interval of the world's duration was very brief, but as something which "was in the beginning" and which (it is clearly implied) God had intended it to be all along. Thus even if we had to concede that His early expectation of the Parousia had vitiated *some* of the more ascetical elements in His teaching, that concession, while bringing in its train very serious implications in

Christology, and as to the general authoritativeness of His teaching as a whole, would not have the slightest effect on the truth or falsity of His teaching concerning divorce; except, of course, that it would weaken our *a priori* confidence that every single piece of His teaching must be true and valid.

314. Finally, in closing this particular part of our subject, let it be noted with all possible clarity and definiteness that the objection we have been considering is not, like the three other forms of the objection criticised by Dr. Kirk, an objection to the critical and exegetical accuracy of our reconstruction of our Lord's teaching on the subject of divorce, but to the *validity*, the *truth* of His teaching, on the assumption that we have been right in our interpretation of it. If any of the laxer or more fluid interpretations of it is correct, the present objection would become superfluous. So the real place to deal thoroughly with the present objection is not in a book which, like the present one, has as its purpose the determination of what our Lord said and meant on the subject of divorce, but in an apologetical treatise concerned with the defense of the Deity of Christ and the authority of His teaching for those who accept His Deity. I cannot, of course, undertake a more extensive defense here. But I hope it is otiose to record my profound conviction that it can be successfully done, despite certain trends in recent New Testament criticism anent our Lord's Messianic consciousness which have given concern to the distinguished author of a recent book review that has created something of a sensation, quite understandably.

315. It may be well at this point to consider briefly another and kindred objection, which relates not to the interpretation of our Lord's divorce teaching, but to its authoritativeness for His followers. It is that Christ was a first century Jew, limited to the knowledge of His day, and that without disputing that He taught what I have maintained in this book, we may licitly claim to have advanced beyond it today, and to have a right to abandon in it practice.

As said above, this is not the place to defend the Deity of Christ, which is a much larger and more vital question than even the one we are studying at length in this book. But for one who accepts that tenet, it certainly does not seem licit to

doubt the truth of anything He may be fairly said to have taught authoritatively, however minor a part of His teaching it may have been, and however closely He may have been adhering to the accepted beliefs of His times. I have indicated briefly just a little above, in the present appendix, my reasons for holding to the conviction that His authoritative teaching, as distinguished from His merely human opinions, must necessarily be inerrant. This is, of course, a matter of Dogmatic Theology and Apologetics, rather than of history in the restricted sense of the term, though I know of nothing in history which in any way conflicts with it.

But in the case of our Lord's teaching concerning divorce, the present objection is at its weakest. For on this subject, Jesus was not adhering at all to the current teaching, in any of its attested forms, but was definitely and decisively innovating, and making a new and radical departure of His very own, as we have seen quite clearly in the first eight chapters of this book. Hence, if on any point at all His teaching is free from the limitations of His place and date in history, this is the most likely point. So this last objection, like all of the others, breaks down completely, and His teaching stands unscathed and unassailable and unconditionally obligatory. There is nothing for those who call Him "Lord, Lord" to do but to "bend the stubborn heart and will" loyally, submissively, and wholeheartedly before it. We may do this with all the greater confidence for that it was He Himself Who assured us that heaven and earth would pass away before His words.

Appendix C

THE INTERPRETATION OF OUR PRESENT MARRIAGE CANON.

316. This Appendix is largely in the nature of a major retraction for the present writer. For many years I have expressed both publicly and privately the reluctant but frank belief that our present marriage canon allows a "liberal" Bishop to restore to Communion or to admit to the other Sacraments a person remarried after a divorce without either requiring the person to separate from the other spouse to this alleged marriage or else to agree to live with that spouse as brother and sister rather than as man and wife in cases where the welfare of the children or other grave reasons make so difficult and dangerous a course seem preferable. Of course I did not originate that interpretation. It is the one commonly held—and acted upon—in "liberal" circles and in some other circles as well which do not take any special delight in being so called. But I did consider that interpretation to be justified, reluctant though I was to come to so pessimistic a conclusion. During my studies connected with the writing of the present book the scales have fallen from my eyes, and I have at last seen that my earlier interpretation of the present canon was unduly pessimistic. I wish in this Appendix to give the reasons for this change of opinion, and to indicate, with my reasons, what I now believe to be the correct interpretation of the present canon.

317. It was, of course, only the last Section of the present canon (numbered "VII") which raised any difficulty for a Christian interpretation. In saying this I leave aside, of course, the so-called "exception-clause" which allows the remarriage (even within the Church, and with her blessing, if a willing priest or bishop can be found to officiate) of the so-called innocent party in a divorce for adultery. For that exception was made

because of the sincere belief that Christ had Himself explicitly made the same exception. But twice over, in both of the subsections of Section VII, we find provisions which have given rise to an interpretation of the present canon that borders on, if it does not (as I would hold) quite pass over into, the region of blasphemy. I shall quote these two passages:

VII. (i). If any Minister of this Church shall have cause to think that a person desirous of Holy Baptism, or of Confirmation, or of receiving the Holy Communion, has been married otherwise than as the word of God and discipline of this Church allow, such Minister, before receiving such person to these ordinances, shall refer the case to the Bishop for his godly judgment thereupon. The Bishop, after due inquiry into the circumstances, and taking into consideration the godly discipline both of justice and of mercy, shall give his judgment thereon in writing . . .

VII. (ii). Any persons who have been married by civil authority, or otherwise than as this Church provides, may apply to the Bishop or to the Ecclesiastical Court of their domicile for the recognition of communicant status, or for the right to apply for Holy Baptism or Confirmation. After due inquiry into all the facts relevant thereto, judgment shall be given in writing . . . In case of a favorable decision, a Minister of this Church may, at his discretion, bless the parties to the union. .

318. My earlier misinterpretation of these two passages, as I now see it to have been, was due chiefly to these three causes:

1. I made the same mistake which Roman Catholic controversialists make in their misinterpretation of certain parts of our formularies, as a basis for their attack on the validity of Anglican Orders. That mistake is to read into the text of the official documents the ideas or wishes of individuals who framed them, but who were in no position to commit the Church by their private views to their preferred interpretation of any ambiguous phrases in the formularies, and who dared not even try to secure the adoption of formularies giving unambiguous expression to their views.

2. I made the mistake of supposing, because these two passages set no *explicit* limits to the power of the Bishop or

Court having to make the decision, that therefore there are no implicit limits to their power in this respect.

3. I supposed that the only point to which the canon could be referring when it spoke of "otherwise than as the word of God and the discipline of this Church allow" (VII. i.) and of "married by civil authority, or otherwise than as this Church provides" (VII. ii.) was to remarriage after divorce.

319. In my present opinion, the first subsection of Section VII of our Canon was not intended to imply (and it certainly does not say) that the Bishop could give a *favorable* judgment anent admittance to the Sacraments *in any case whatsoever* IF he found that the person being investigated had been married "otherwise than as the word of God and discipline of this Church allow". His judgment was to be passed only on the question whether the marriage was or was not, as a matter of strict fact and theology, contrary to what is allowed by God and His Church. If he found it was contrary, he is obliged to exclude the sinner from the Sacraments unless and until amendment has taken place, or at least been definitely promised. His judgment is not to concern itself with the question whether in any exceptional cases the person might be admitted to the Sacraments despite the fact that the marriage had been found to be contrary to "the word of God and discipline of this Church." This I now am firmly convinced is the correct meaning of VII (i). It is only by taking it with the following subsection and forgetting that it was a part of the Canon long before VII. (ii) was added in 1931 that any sort of a case whatsoever can be made out for any other interpretation.

However, simply to make assurance doubly sure, I shall now go on to show that, even if (*per impossibile*) it does mean that the Bishop can readmit to the Sacraments in *some* cases in which the person is married "otherwise than as the word of God and the discipline of this Church allow" it still does not justify the usual "liberal" inference (under the spell of which I myself was held until very recently) that it would justify him in so readmitting *any* remarried divorced persons, while both parties to the first marriage are still alive, unless the first marriage can be found to be subject to *bona fide* and conscien-

tious annulment, or unless the divorced couple are remarrying each other. I would emphasize that in the rest of this Appendix, I am arguing on this premise, which I do not admit to be sound.

I see now that a person might be married otherwise than the discipline of this Church allows in more ways than one; and that some of these ways might be of a nature to make it possible for the Bishop to find that nothing sufficiently serious had been done to necessitate permanent exclusion from the Sacraments, while others might be of such a serious character that unless and until remedied by repentance and efficacious amendment exclusion from the Sacraments would be necessary. There is nothing in the text of Section VII, either in subsection i or ii, to give any support to the idea that remarriage after divorce would fall in the former class rather than in the latter. And there is a great deal in the rest of the canon, and even more in the Book of Common Prayer, to require any good and objectively loyal Episcopalian to place it in the latter class. So, since we are obliged to interpret silent or ambiguous passages of our formularies in the light of those that are not silent, or that are unambiguous, we ought to conclude that the proper interpretation of the passage in VII. (i) is that while the marriage might violate the canon or Prayer Book in many ways, and that some of these ways need not exclude permanently from the Sacraments, other ways would necessarily so exclude; and that remarriage after divorce is one of these latter. Hence the canon does not authorize or allow any Bishop or Court to restore to the Holy Communion or to admit to the other Sacraments anyone who has remarried after a divorce, or who has married a divorcee.

320. It might be objected to this interpretation that the Canon says not only "the discipline of this Church" but also "*the word of God AND the discipline of this Church allow*" and by so saying shows that the Bishop can in some cases, at least, decide in favor of granting the Sacraments *even when the word of God has been violated*. This is true. But it still does not necessitate the inference that remarriage after divorce is one of the violations of "the word of God" which admit of restoration to the Sacraments without repentance and efficacious

amendment. Here again there may be supposed to be two very different classes of violations: (1) those which are so serious that unless and until remedied exclusion from the Sacraments is necessary, and (2) those which, though indisputably violations of "the word of God" are nevertheless not so serious as to make permanent exclusion from the Sacraments necessary. In the former class would certainly be included any marriage that is bigamous, even in the sight of the civil law (in other words, remarriage without even bothering to get a divorce that stands up in the eyes of men), and marriage within the closer degrees of consanguinity, such as brother-and-sister or mother-and-son marriage. In the latter class we can, at least arguably, include marriages within the outlying degrees of consanguinity or affinity, as given us by "the word of God" in Leviticus, and certainly cases of remarriage after a civil divorce in which the Church can find valid grounds for an annulment of the first marriage, even though for some reason the civil courts gave a divorce rather than an annulment in the case.

Our own Church has made her list of impediments so that it leaves out all of the cases of affinity which are either explicitly listed or clearly implied in Leviticus, thus clearly showing her agreement with the Pope that some at least of the Levitical degrees admit of being dispensed from, or else simply disregarded, even though they are imposed by "the word of God." It might be further held that even some of the more outlying degrees which have been retained in our list, such as an uncle-niece marriage or an aunt-nephew marriage, need not involve permanent exclusion from the Sacraments if contracted in violation of our discipline and the word of God, even though the Church would be unwilling to sanction such a marriage by giving a dispensation for it and then allowing it to be performed in the Church, and with her blessing. Marriage with a deceased brother's wife would thus be contrary to "the word of God" but not contrary to "the discipline of this Church." Marriage of an uncle with a niece would be contrary to both. But a Bishop might judge that in such a case, from which I believe Popes have claimed the power to dispense in very special cases, he could at least admit to the Sacraments even though he could not go as far as the Pope and give a dispensation for such a marriage to take place.

I do not wish to be understood as implying that if I were a Bishop I would so decide such a case. I would first have to study the issue more thoroughly than I have yet done. But it is at least not in my mind an impossible position to take. What would be impossible would be to conclude that a "marriage" which Christ Himself has explicitly declared to be no true marriage at all, but rather adultery, imposes no insuperable obstacle to admission to the Sacraments until broken off. In other words, remarriage after divorce (unless it were found that where the civil law had given a divorce the Church could grant an annulment) would have to fall into the first class listed above—the class of violations of the word of God and the discipline of this Church which are so serious that no one guilty of them can be admitted to the Sacraments as long as the offense continues. Thus VII. (i) does not give authority to a Bishop to admit such an offender to the Sacraments.

321. It will do no good to argue against this conclusion that the canon itself does not set any explicit limits at all to the power of the Bishop in this respect. There can be implicit limits where there are no explicit limits. And in this case, as already suggested above, there can be no doubt that there *are* some implicit limits, even if it be denied that remarriage after divorce falls outside those limits. For, as said above, there can be no reasonable doubt that a Bishop would have to give a decision of permanent exclusion from the Sacraments in the case of an openly bigamous marriage (I mean one that is bigamous even in the eyes of the civil law) or in the case of a marriage within the degrees of consanguinity which even the most avid maximizer has never held to lie within the power of possible Papal dispensation, as for example marriages of brother and sister, or of mother and son.

The only fair question remaining, then, is where the implicit limits on the Bishop's power fall. And that must, as said above, be determined by the teaching of the Church and of Christ Himself, and not by the sympathies of the individual Bishop, or even by his private opinions on divorce. Since Christ taught that remarriage after divorce is adultery, and since both Christ and His Church teach that adultery is a grave sin, and that forgiveness of any grave sin is impossible unless preceded

by sincere repentance and amendment, it follows with irresistible logic that the case of a remarried divorcee falls outside the limits of the Bishop's power to give a favorable decision anent admittance to the Sacraments. The failure of the canon to express this limit no more relieves the individual Bishop from the obligation to be guided by it than the failure to mention the even more indisputable limits listed above in the preceding paragraph justify him in transgressing those limits. I cannot understand how I have remained blind to this perfectly obvious point for so long.

322. It will not do any good to urge against this conclusion the direction of the Canon that, in making his decision, the Bishop shall take "into consideration the godly discipline both of justice and mercy." The mention of justice and mercy do not mean that the word "godly" before "discipline" should be forgotten. And certainly no discipline can truthfully be called "godly" which would sanction, or connive at, or even tolerate what God-Incarnate called "adultery." All that the words "justice" and "mercy" can legitimately be taken as meaning, without putting Section VII of the Canon in irreconcilable opposition with all the rest of our formularies (whether Canons or Prayer Book or the history of the Church's past) is that the Bishop should go as far in the direction of mercy and justice as he can without being unfaithful to the explicit teaching of Jesus Christ; who was, it may be remarked in passing, not entirely unfamiliar with either justice or mercy, yet who found it possible to declare that remarriage after divorce is nothing short of adultery.

As argued more fully in Chapter IX, it is neither just nor merciful to allow impenitent adulterers to receive the Holy Communion, and by so doing to encourage them to think that their course of action is morally sound and requires no amendment. That may well do more to lose their souls finally than would the lack of the Sacraments. For God can always make up by uncovenanted means whatever He desires souls to have. But how could He ever get such souls to understand the sinfulness of their course of action, and to alter it if His Church has even seemed to give it a "clean bill of health" by admitting the sinners, without repentance and amendment, to that "full

good standing" which most people associate—and rightly so—with the right to be admitted to the Sacraments?

323. Finally, it will do no good to attempt to upset this conclusion by appealing to VII. (ii). For, as I now see, that subsection has no special or exclusive reference at all to cases in which divorcees are remarried, but to any marriage whatsoever *outside the Church*. It is not said this time "otherwise than the *discipline* of this Church *allows*" but rather "otherwise than as this Church *provides*." That would cover not only marriages by civil authority, but also by sectarian clergymen. The reason for treating these marriages as a class apart is not that our Church explicitly forbids such marriages, but the fact that in such cases we have no valid reasons for assuming that the marriage has been according to the word of God and the discipline of this Church, since the Church did not have to sanction it before it took place. Hence there is no secure reason to assume that such persons are entitled to the Sacraments. So, simply as a matter of playing safe, the Church requires them to submit their case for inspection. If it is found that their marriage has been according to the word of God and the discipline of this Church, they may be admitted to the Sacraments and "a Minister of this Church may, at his discretion, bless the parties to the union."

324. The case in which their marriage is "otherwise than as the word of God and the discipline of this Church allow" is not to be understood as "before the house" in VII. (ii), for it has already been disposed of in VII. (i). The importance of this is that the permission to "a Minister of this Church" "at his discretion" to "bless the parties to the union" applies only to cases in which the irregularity is confined to the fact that the persons have been married "by civil authority, or otherwise than as this Church *provides*." It does not apply to a person who in addition "has been married otherwise than as the word of God and discipline of this Church *allows*."

Of course *some* of those who have been married "by civil authority, or otherwise than as this Church provides" will in all probability have been married also "otherwise than as the word of God and discipline of this Church *allow*." That does not make their case any the less subject to the provisions of Sec-

tion VII. (i) than if they had by some sort of fraud on their part, or unconscientiousness on the part of the clergyman officiating, or other reason, been able to contract such a marriage "as this Church provides" (i.e. in the Church and with the Prayer Book service and by a Minister of this Church). If anything, their culpability might be less rather than greater. But in that event, their case has to be handled under VII. (i) rather than under VII. (ii). And in the former subsection there is no permission to "bless the parties to the union". Nor could there be, logically, in a case in which they had been married "otherwise than as the word of God and discipline of this Church allow." But, as explained above, we have been arguing, since we finished the second paragraph of Sec. 319, on the hypothetical assumption that VII. (i) means that in some cases the breach of the word of God and/or the discipline of this Church might not be of a sufficiently grave character to necessitate permanent exclusion from the Sacraments, even though grave enough that the Church could not consistently give that marriage her blessing.

In other words, as I now see, VII. (ii) is not (as on the interpretation I once accepted it would have been) little or nothing more than a mere doublet of VII. (i). It refers, rather, to a different and less difficult type of case; and it is for that reason that it goes further in the concession that it makes in the event of a favorable decision.

325. A great and admirable Bishop of our Church once said to me in a letter that as a parish priest he had always followed the strict Catholic practice, but that when he became a Bishop he felt obliged to obey the Canon, so that he had now for some time been restoring people to Communion, or admitting them to other Sacraments, in cases he would have refused to touch at all as a parish priest. If the interpretation of the Canon contended for in this Appendix is correct, it will be seen at once that this good Bishop has been acting under the supposed obligation of a requirement that does not in reality exist at all. I have only very recently come to see the correctness of the interpretation put upon the Canon in this Appendix. But I make bold to believe that, even on the interpretation I thought to be correct at the time I received that letter, it was not obligatory,

but only permissible, (canonically, of course; not morally), for a Bishop to disobey Christ. He was certainly at least canonically at liberty to obey Him. Even if there are no implicit limits to the power of the Bishop under this Canon, at least he is certainly not obliged by the Canon to *use* his power to the fullness of its unlimitedness. He can at least conform his decisions to the teaching of Christ, even if he has canonical power to disregard that teaching.

326. But even if the Canon did impose an absolutely unambiguous obligation to decide some cases, at least, in favor of remarried divorcees, I cannot see how anyone who believes in the supreme teaching authority of God-Incarnate, and who knows that He taught the indissolubility of marriage, could obey it for a moment. When the requirements of God and the requirements of one of His agents conflict, it should be unthinkable to obey the agent rather than God who is the source of every particle of that agent's authority. In such a case, being confronted with a conflict to loyalties, we must obey God rather than men, and accept the consequences. If the Episcopal Church chose to depose such a Bishop or priest for putting his loyalty to Christ first, he ought to be glad that he no longer owed any service to such a Church. A Church which so lovingly tolerates so much that is objectively disloyal to Christ and yet would refuse to tolerate loyalty to Him would be unworthy of further devotion. Nor can it be urged that the individual priest should not set his own opinion as to what is loyal to Christ above the opinion of his particular Church. The priest is a member not only of the Episcopal Church, but of the Anglican Communion, and so of the Catholic Church. It is neither proud nor arrogant to consider the teaching of these authorities a better guide to the mind of Christ than the Episcopal Church with her ridiculous legislative processes.

327. Moreover, as shown in Appendix D, the Canon, if interpreted so as to conflict with what was the teaching of the Church before the Canon was amended, would be unconstitutional, for the reasons there given.

Appendix D

IS OUR MARRIAGE CANON CONSTITUTIONAL?

328. I wish to discuss in this Appendix the question of the constitutionality of our present Canon on Marriage and Divorce. This really raises two questions. Until 1868 the law of the American Church on this subject was purely and simply the law inherited from our mother Church, the Church of England, because it had not yet been supplanted or amended by any statute law of our own. But this law had been interpreted, by a Joint Resolution of the General Convention of 1808, as allowing an exception in favor of the "innocent party" in a divorce granted on grounds of adultery. The first question is two-fold: "Is such a Joint Resolution obligatory at all? And, if so, was this particular Joint Resolution constitutional (that is, a legally valid exercise of the legitimate powers of the General Convention) or was it *ultra vires*?"

Then, in 1868, the same exception was (unless the attempt was invalid) made a formal part of the Canon Law of the American Church by passing our first formal canon on marriage and divorce containing an exceptive clause to that effect. The second question is, "Was this canon, or at least the exceptive clause within it, constitutional?"

329. It seems very unlikely that a Joint Resolution professing to interpret a law is obligatory. And the same thing would apply, *a fortiori*, to the official doctrine of the American Church. But I do not wish to argue this point in this Appendix, or to take my stand primarily on that ground. I prefer to take higher ground, and ground that is in my opinion even more secure. I maintain, then, that even if Joint Resolutions can in some cases be obligatory, as interpretations of the official law or doctrine of the Church, this particular Joint Resolution was *ultra vires*, and so of no valid legal force. The funda-

mental reason is that General Convention does not have the power to amend the Prayer Book (or Constitution) of the Church UNLESS it acts in the way prescribed by the Constitution for making such amendments. The procedure prescribed for amending the Constitution or the Book of Common Prayer is the same, and in either case it calls for two special requirements over and above the majority of a quorum which is all that is required for the passage of ordinary business. One of these is that the amendment must pass two Conventions in succession. The other is that it must receive an actual majority of all votes cast, voting by Orders at least on the second reading, and also on the first reading if a sufficient number require such procedure. Clearly, the purpose of both these provisions is to prevent hasty and ill-considered action, and also to prevent the passage of an amendment by a majority of a quorum, which might easily be a minority of the whole Convention and still more easily of the Church as a whole.

Now clearly neither one of these special procedures was followed in 1808 when General Convention passed the Resolution interpreting the existing law as allowing an exception which it did not actually allow, and which was even less consistent with the teaching of the Marriage Service in the Prayer Book. Admittedly, General Convention would not have been able to amend the Prayer Book without the observance of these two special procedures, at least not directly.

330. But if they cannot do it directly, then neither can they do it indirectly, by the process of an "interpretation" which is really, in effect, and to all intents and purposes, an amendment, even though it does not come in the form of one. The Supreme Court of the United States of America has consistently held that all attempts to reach out and seize by indirection powers which the Congress could not constitutionally exercise directly were just as unconstitutional as would have been the attempt to exercise those powers directly. For example, when an attempt to regulate child labor directly was declared unconstitutional, an attempt was made to accomplish the same thing by indirection, through the use of the admittedly constitutional taxing power, to place at a disadvantage products produced by such child labor by taxing them more highly. But the Court held that this tax

was no true tax, but a penalty in the guise of a tax, and that therefore it had to stand or fall as a penalty. Since Congress did not have the power to penalize child labor directly, it did not have, either, the power to penalize it by a tax intended primarily and really to discourage child labor *rather than to raise money*; although there is no doubt at all of the power of Congress to impose a *bona fide* tax. I hope I need not say that I do not intend to express or imply, by this argument, any sympathy with child labor. I use it only as the most simple and convenient example of the legal principle involved which is known to me.

Substantially the same principle was involved in the majority decision in the AAA case. Admittedly the Congress did not have the power to regulate agriculture directly. Admittedly, also, under the decision given in the child labor case just discussed, it did not have the power to regulate it through a punitive tax. No more, said the majority, did it have the right to regulate it by means of "grants in aid" which were not true "grants in aid" but were intended primarily to put at a great disadvantage those who refused to submit to the regulation on which the "grants in aid" were conditioned, and thus by in-direction compel all to submit to regulation.

A purely hypothetical but even more closely parallel case would be this. Admittedly Congress cannot regulate intra-state commerce. Let us not forget that there can be a reasonable difference of opinion as to whether a particular matter is intra-state or inter-state. But, for that very reason, let us take a case about which there could be no doubt, a case in which the Supreme Court would have decided by a unanimous vote that the matter was intra-state commerce, and that consequently Congress did not have the right to regulate it, unless it secured the right by a Constitutional Amendment. Does anyone imagine that the Supreme Court would allow Congress to circumvent the Constitution, and the protection against Federal regulation which it would, *ex hypothesi*, grant to the defendants in such a case, by the simple evasive process of first defining "inter-state commerce" in the law to include the point which it otherwise admittedly would not have included, and then proceeding to regulate it because it was now, under the new definition, "inter-state commerce"?

To do so would be for the Supreme Court to confer upon Congress the right to amend the Constitution, by indirection if not formally and by direction, by the same easy process by which ordinary laws are enacted, when everyone knows that a far more difficult process is required by the Constitution itself, and that neither Congress nor the Supreme Court nor even both together have the power to amend the Constitution except by that means. And if a packed Supreme Court could conceivably sink so low as to commit this breach of trust, and this outrage on truth, can anyone deny that it would be guilty of grave moral delinquency in doing so, and would some day be reversed by a more conscientious and honorable Supreme Court when its membership had, by the passage of years, become "unpacked"?

331. Now exactly the same principle applies to the "interpretative resolution" passed by General Convention in 1808. For only by observing the duly prescribed constitutional method can the Prayer Book or Constitution be amended. So the Resolution of 1808 was simply *ultra vires*, and was totally devoid of any valid or legal or constitutional effect on the meaning of the existing law of the Church, much less of the Marriage Service.

332. We now come to the second question. Was the exception in the Canon of 1868 constitutional? The answer must once again be in the negative. For it constitutes, in reality if not in express form, an amendment to the *teaching* of the Book of Common Prayer. And it was not passed by the procedure required by the Constitution to pass such amendments. Therefore it is clearly unconstitutional. If it is constitutional to amend the Prayer Book teaching by indirection, by Canons which either explicitly or by implication "reinterpret" its original meaning, then the constitutional provision guaranteeing the right of any Order, by a certain kind of vote, to defeat amendments to the Prayer Book and Constitution, would be completely circumvented. For the requirements necessary to pass a Canon or amend it are much less stringent than those necessary to amend the Constitution or Prayer Book.

333. The exception in the Canon of 1868 was, then, unconstitutional, unless it can be successfully contended that no

doctrinal change was made thereby. But this latter contention is untenable. For the Church explicitly declared at the time when she became independent of the Church of England that she had no intention to depart from the latter in any point of doctrine or discipline. The burden of proof is, then, on anyone who would assert that she had so departed. There is nothing in our formularies before 1808 to sustain any such burden of proof. And that the Church of England taught—and still teaches—the indissolubility of marriage is provable both from her past pre-Reformation doctrine in which no change was made at the time of the Reformation, and from the language of her Marriage Service, and from her very clear and explicit Canons of 1603. So the doctrine of the Protestant Episcopal Church was the same as that of her mother Church from the Revolution until 1808. Thus the “interpretation” put on the law by the Convention of 1808 was a doctrinal change, and therefore was unconstitutional for the reasons developed above. And the same was true of the exception in the Canon of 1868 though the procedure was somewhat less highhanded.

334. It goes without saying that if this argument is valid when applied to the exception in the Canon of 1868, it is still more true of the changes made in the Canon in 1931, at least as usually interpreted. For that Canon, as then amended, and as usually interpreted (but see Appendix C.) involves these doctrinal changes:

Either that remarriage after divorce is not adultery;

Or else that adultery is not a sin;

Or else that repentance of sin is not necessary in order to “draw near with Faith and take (the Holy Sacrament) to (one’s) comfort;”

Or else that there can be sincere and real amendment without desisting from the sin of which one pretends to be repenting.

Or else that “the end justifies the means” so that adultery can be continued in some cases, under certain circumstances, as a means to a good and important end.

Now every one of these propositions is flatly contrary to the present doctrine of the Protestant Episcopal Church in the United States of America. Hence, if the Canon as amended in 1931 is correctly interpreted as allowing the restoration to Communion of persons who are "married" while one has a still living spouse from an earlier and valid marriage from whom there has been a divorce in the eyes of men, without separating or at least promising to live "as brother and sister" as a condition of restoration to Communion, it is unconstitutional. For it constitutes in effect an indirect but none the less real amendment to the Prayer Book (its doctrine) without having followed the constitutionally prescribed procedure. Only by interpreting the Canon as suggested above in Appendix C can its constitutionality be saved.

335. By that last statement I do not intend to maintain that the whole Canon must be held unconstitutional. Even if it had all been passed at the same time, it might still be possible to separate the unconstitutional parts from the rest, and uphold the constitutionality of the latter. The civil courts will sometimes do this with civil legislation, if the unconstitutional part is organically separable from the rest. I see no valid reason why the same thing should not be possible with canons as well. And the exceptive clause is certainly easily separable from the remainder of the canon, as it is not so organically connected with the rest of the canon that the latter would be unable to stand or make sense without it. This would be still easier to do with such of the subsequent amendments as are unconstitutional, since they were (*ex hypothesi*) simply invalid attempts to amend a canon that was itself already valid before those attempts were made, and which would not be made unconstitutional by the invalid attempts to amend it in an unconstitutional manner. The correct conclusion would seem to be, then, that the Canon of 1868, as subsequently amended in a constitutional manner, but *minus* the original exceptive clause and *minus* also such subsequent amendments as involve doctrinal changes in the official position of the Church, and are hence unconstitutional, is the present statute law of the American Church on the subject of marriage and divorce.

If it be denied that the unconstitutional exceptive clause can be separated from the rest of the Canon of 1868, and if it

is held that consequently that whole canon is unconstitutional, and so of no valid legal force, then the same conclusion would have to be drawn as to all our subsequent canonical legislation on the subject. In that event, the only valid law of the American Church on the subject today would be the law of the Church of England as it was at the time the American Church became independent of the mother Church, and as it was consequently before our first specifically American statute law on the subject was (*ex hypothesi*, we must say) attempted. This last conclusion, if it had to be accepted, need not give any grief to upholders of our Lord's teaching of the indissolubility of marriage. For the official position of the Church of England on this subject, both doctrinally and canonically, is just about perfect, from the standpoint of indissolubility. Whatever has been defective in her actual practice on this point since the Reformation has been due entirely to departure from her official position.

Appendix E.

BISHOP DAVIS, THE "DENVER PRINCIPLE", AND HASTY WAR MARRIAGES

336. As this book goes to press, or rather as it is almost ready to come off the press, the Church press carries a brief account of a plea by Bishop Davis, the distinguished Chairman of our Commission on Marriage and Divorce, for a "liberal" canon, which will make it possible for us to "do something for" those who have contracted hasty war marriages and, upon returning, will find that they have "made a mistake" and want "another try".

Undoubtedly this problem is going to be quite serious, and he would be stony-hearted indeed who would not want to do all we honestly and morally and loyally can for those unfortunate enough to have contracted hasty war marriages that do not "turn out right". But there are several qualifications that absolutely **MUST** be made.

337. First, we do not want to do something "for" the boys that is really *against* them, just because they in their religiously uninstructed minds mistakenly think that the thing they would like us to do is *for* them. And if we tell them it is all right to commit adultery, that does not actually make it all right. Even the most extreme "High Churchman" never claimed for the Church, with her tremendous "power of binding and loosing", the right or power to unsettle and reverse what God, Incarnate or un-Incarnate, has settled for us. For that same reason, if we tell them that to remarry after divorce is not to commit adultery, that does not in the least keep it from being adultery, if Christ taught that it was—unless, of course, Christ was wrong. I think all will agree that no loyal follower of His is at liberty to proceed on that last premise.

To lead the boys into thinking they are not committing adultery when they really are, or that they are making worthy Communion when they really are not is not at all to do something *for* them, but something that is tragically, and quite possibly fatally, *against* them. It might even cost them their immortal souls! And the crucial question is not how much they will appreciate what we have done "for" them to-morrow or next year, but how much they will appreciate it the morning after the Judgment Day.

338. An even more crucial question is how much *Christ* will appreciate what we have done "for" the boys. Certainly we must, above all other considerations, be sure that whatever we decide to do "for" the boys is *loyal* to Christ. The present writer has served for over four years as rector of a parish in Bishop Davis' diocese, and knows him well enough to be absolutely certain that he is entirely incapable of any step which he does not sincerely and profoundly believe to be fully and completely loyal to Christ. I have no doubt that the same is true of the great majority, the overwhelmingly majority, of those who accept what is coming to be called "the Denver principle" and as a result advocate a "liberal" Divorce Canon. But that gives us only what ethicists call "*subjective* loyalty". It does not in the least assure "*objective* loyalty". For objective loyalty concerns what is *really and truly* consistent with what Christ *actually did teach*; not merely what *seems* to some fallible human mind to be consistent with what that same mind *believes* (possibly mistakenly) that He taught.

Now it is true that, as far as the salvation of the individual soul is concerned, or the moral character of the individual, *subjective* loyalty is what supremely matters. If that is lacking, nothing can serve in its stead. If that is present, then, even though the individual is (unintentionally) *objectively* disloyal, that can and we believe will be forgiven if the error involved is due to invincible ignorance.

But while *subjective* loyalty, even when not issuing in objective loyalty, can suffice to justify a sinner at the Judgment Seat, if its miscarriage is due to invincible ignorance, it (*subjective* loyalty) fails completely to suffice as a justification of a *policy*. Unless a policy is *objectively* loyal to Christ, then it

is un-Christian, no matter how subjectively loyal may have been those who advocated its adoption. They may be forgiven for their misguided zeal. But that will not make the product of their sincere and zealous effort loyal to Christ. For a policy is not a person, but an impersonal thing. Thus it cannot be *subjectively* loyal to Christ; for it is not a "subject" in the sense necessary to make subjective loyalty possible. Hence the only kind of loyalty a policy can possibly have is objective loyalty. If it is not objectively loyal to Christ, then it is unqualifiedly *disloyal*. The question that is absolutely crucial for us to decide BEFORE WE ADOPT "THE DENVER PRINCIPLE" is "Is this principle loyal to our Lord and Savior, Jesus Christ?" Not "Are its protagonists (subjectively) loyal to Him?" but "Is the 'Denver principle' itself loyal to Him?"

339. The answer to that question is, in one sense, perfectly simple. It depends, to be sure, on a historical issue, the settlement of which is *not* perfectly simple. But we can say with absolute security and certainty that "the Denver principle" is loyal to Christ *only* IF he did *not* teach the indissolubility of marriage. If, as a historical fact, he actually *did* teach that doctrine, or assume it as an inescapable premise in all He did actually historically say on the subject of divorce, then "the Denver principle" is gravely and flagrantly *disloyal to Christ*. That is just as clear and certain as the multiplication tables. And it cannot be upset by what we wish He had taught, or what we mistakenly think He taught, or even what we profoundly believe He ought to have taught. Nor is it in any way affected by the requirements of expediency in any particular situation, however urgent and however strong the appeal it makes to our sympathies.

It is not affected even by the problem of hasty war marriages. Besides, it is only fair to remember that many of these would have been less hasty and less ill-considered if the principle of indissolubility had been axiomatic to the contracting parties, instead of the contradictory principle. It would be high treason to Christ to surrender or compromise for the rest of time a principle which He believed and taught to be true, in order to be in a position to bend less painfully before a particular passing storm, which, however violent it may be expected to be, is bound

to be essentially transitory. Undoubtedly, if we insist on being objectively loyal to Christ, we shall lose many contributing members we can gain or hold by consenting to be unfaithful. But what is important is not how many converts we make to the pledge system, or even to Church attendance or to the habitual use of the Sacraments. What is important is how many converts we make *to Christ!* And if they are not converts to His teaching, they are not converts to Him. I have a faint memory of His having dealt with this issue beforehand, so to speak, while He was still on earth. I believe He said something like, "Why call ye Me 'Lord, Lord' and do not the things which I say?" That is a very relevant saying.

340. So whether we may adopt "The Denver principle" and, as a corollary, a "liberal" Divorce Canon depends entirely, absolutely, one hundred percent, on the historical issue argued in this book. If Christ did *not* actually teach the indissolubility of marriage, then "the Denver principle" is at least arguable; though even then the arguments presented in Chapter XII of this book would, in my opinion, make it extremely doubtful whether it is the wise, the right, the statesmanlike policy to adopt. But if Christ *did* actually teach the indissolubility of marriage, and the evidence that He did so is completely overwhelming, as we have seen above, then (whatever may be the case with misguided individuals who do not know that He so taught) "the Denver principle" itself is formally and radically disloyal to Christ, and utterly inconsistent with His teaching, and the "liberal" Divorce Canon which it would justify is hopelessly indefensible. God grant to our Bishops and to the rest of the deputies to our General Convention the wisdom, clarity of thought, humility, strength, and courage to stand up bravely and unflinchingly for Christ and His divine teaching, without reservations, and without counting the earthly cost either to themselves or to the numerical and material welfare of the Episcopal Church. There are things that may legitimately be subordinated to considerations of numbers or of money. But unqualified loyalty to Christ and His teaching is not one of them. God preserve us from being a Church of Esaus!

EXPLANATORY NOTE TO THE INDICES

All references in the three following Indices ARE TO SECTION NUMBERS, NOT TO PAGE NUMBERS. SMALL ROMAN NUMERALS REFER TO SECTIONS IN THE PREFACE; ARABIC NUMERALS REFER TO SECTIONS IN THE MAIN TEXT OF THE BOOK. PLEASE NOTE THIS CAREFULLY. This has been done to make possible the preparation of the Indices while the main text of the book is going through the press, and before the page proofs are available, in order thus to avoid further delay in its appearance. This has seemed especially desirable, since the book has already been delayed some four months by a certain unfortunate misunderstanding. I have tried as a general rule to have the more important references (to Section numbers) printed in heavier type. But I fear this has not been perfectly carried out in all cases; though there has been no advertent departure from this scheme. Occasionally a Section number has been entered where the actual *word* does not occur in the Section, because the *subject* is under consideration there. But it has not been found practicable to list all such entries consistently. Also frequently some entry will be made under a more general heading (e. g. "Indissolubility") and again under one or more of its subheadings without referring to a different passage. On the other hand, sometimes a subject has been entered in its own right as a main heading, and again as a subheading under one or more different main headings. I hope these duplicate entries may be of service to some of the more thorough students of this book.

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